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CONTEMPORARY FORMS OF SLAVERY

Report of the Working Group on Contemporary Forms of Slavery on its twenty-second session

Chairperson-Rapporteur: Mrs. Halima Embarek Warzazi

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Introduction

1. Upon the recommendation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Economic and Social Council, in its decisions 16 (LVI) and 17 (LVI) of 17 May 1974, authorized the Sub-Commission to establish a five-member working group to review developments in the field of slavery, the slave trade and the slavery-like practices, of apartheid and colonialism, the traffic in persons and the exploitation of the prostitution of others, as defined in the Slavery Convention of 1926, the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, and the Convention of 1949 for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. The Working Group was established in 1975 and has met regularly before each session of the Sub-Commission. In its resolution 1988/42 of 8 March 1988, the Commission on Human Rights endorsed the Sub-Commission's recommendation that the name of the Working Group should be changed to "Working Group on Contemporary Forms of Slavery".

I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

2. The Working Group held its twenty-second session from 2 to 11 June 1997. It held 12 meetings. The session was opened by Mr. Ralph Zacklin, Officer-in-Charge, High Commissioner/Centre for Human Rights, who made a statement in which he described the positive results of the Working Group's activities in the past 22 years. He commended the Working Group on its dynamism and, in particular, on the fruitful dialogue established between States and the Working Group on the question of the ratification of the conventions relating to slavery and on other questions. He stressed that the flexibility of the Working Group's methods of work had enabled it to take account of all developments in contemporary forms of slavery.

3. In accordance with Sub-Commission decision 1996/111, the composition of the Working Group was as follows: Mr. M. Bossuyt, Mr. O. El Hajjé, Mr. J. A. Lindgren Alves, Mr. I. Maxim and Mrs. H.E. Warzazi. Mr. Lindgren Alves, who was unable to attend the session, was replaced by Mrs. M. Ferriol Echevarría.

4. A list of the documents which the Working Group had before it at its twenty-second session appears in annex II.

B. Election of the Chairperson-Rapporteur

5. At the first meeting, held on 2 June 1997, the Working Group elected Mrs. H.E. Warzazi Chairperson-Rapporteur by acclamation. The Chairperson of the Working Group made a statement on the increasing attention that the international community was paying to the sexual exploitation of children and to sex tourism. In that connection, she welcomed the fact that many countries had enacted laws enabling them to prosecute their nationals for acts committed abroad when such acts had been committed against children. She also commended the initiative by the World Tourism Organization to organize a meeting to study ways of combating sexual tourism and the action taken by tourism

professionals to combat sexual tourism. She said that AIDS, the economic exploitation of children, poverty and children involved in armed conflict were matters of enormous concern.

C. Participation

6. The following Member States of the United Nations were represented at the Working Group's meetings by observers: Australia, Belgium, Brazil, Canada, China, Costa Rica, Cuba, Democratic People's Republic of Korea, Dominican Republic, Finland, India, Iran (Islamic Republic of), Japan, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Poland, Republic of Korea, Russian Federation, Slovakia.

7. The following non-member State of the United Nations was also represented by an observer: Holy See.

8. The following United Nations organizations were represented by observers: Board of Trustees of the United Nations Voluntary Fund on Contemporary Forms of Slavery and United Nations Children's Fund (UNICEF).

9. The following specialized agency was represented by observers: International Labour Organization and its International Programme on the Elimination of Child Labour (IPEC).

10. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers: International Alliance of Women - Equal Rights, Equal Responsibilities; Asian Women's Human Rights Council; African Bureau of Educational Sciences; Coalition against Trafficking in Women; Baha'i International Community; International Council of Women; Defence for Children International; World Federation of Methodist Women; International Federation Terre des Hommes; Foundation of Japanese Honorary Debts; War Resisters' International; Liberation; International Movement against All Forms of Discrimination and Racism; International Fellowship of Reconciliation; International Service for Human Rights; Anti-Slavery Society.

11. The following other organizations which supply information to the Working Group with its consent were represented by observers: Action for Children Campaign; Asian Women's Fund; World Association for Orphans and Abandoned Children - African Regional Office; Cambodian Centre for the Protection of Children's Rights; Constitutional Rights Projects; Espacio Afroamericano; Houseworkers' Movement; Islander Civil Movement; Mongolian Centre against Violence; Mongolian Women Lawyers' Association; Save the Children Fund (United Kingdom); Tambov Human Rights Group.

II. ADOPTION OF THE AGENDA

12. At the first meeting, on the proposal of one of its members, the Working Group discussed the inclusion in its agenda of three new items on cloning and related scientific excesses; violations of rights and abuses to which followers of certain sects are subjected; and social advancement.

13. The members of the Working Group said that they were in favour of considering the question of violations and abuses committed in the context of some sects, but they were rather reserved about cloning and social advancement, and took the view that those two topics did not belong in the Working Group's agenda at the current stage of its work. Consequently, a new item entitled "Illegal practices of certain religious and other sects" was included in the agenda.

14. The Working Group adopted its agenda on the basis of the provisional agenda (E/CN.4/Sub.2/AC.2/1997/1).

III. REVIEW OF THE IMPLEMENTATION OF AND FOLLOW-UP TO THE CONVENTIONS ON SLAVERY

A. Status of the conventions

15. In connection with the consideration of agenda item 3 (a), the Working Group had before it reports on the status of the conventions on slavery (E/CN.4/Sub.2/AC.2/1997/2 and E/CN.4/Sub.2/AC.2/1997/3). As had been the case each year since 1991, the Working Group also had at its disposal a list of the countries which had not ratified the conventions.

16. The Working Group, being still concerned at the slightness of the increase in the number of States which had ratified the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949 Convention), paid particular attention to the countries which had not yet ratified the Convention. In accordance with a practice established at its nineteenth session, the Working Group asked the Secretariat to approach certain States which had not yet ratified the Convention and invite their representatives to meet with the members of the Working Group for an informal exchange of views.

17. On completing its work, the Working Group thanked the Government representatives who had responded to its invitation and recalled how useful direct talks with the members of the Working Group were. Other countries were also encouraged to respond favourably to the invitation of the Working Group, whose aim was not inquisitional, but simply one of cooperation and information.

B. Review of information received regarding the implementation of the conventions and programmes of action

18. The members of the Working Group noted that the non-ratification of the conventions on slavery by some States was primarily the result of lack of knowledge and understanding of contemporary forms of slavery and of the conventions themselves. In that connection, it was recalled that the Anti-Slavery Society had submitted a note to the Working Group at its twenty-first session which had been based on the 1956 Convention and related to various slavery-like practices that required urgent action by Governments.

19. Some participants encouraged the preparation of such notes on slavery and, in particular, on the 1949 Convention in order to encourage its ratification. It was also recalled that, at the Working Group's twentieth session, Mrs. Palley had stated that allowing minor reservations as well as declarations of interpretation of controversial provisions of any convention could be an incentive for ratification by more States.

20. The ratification of the conventions on slavery by all States, even those which did not regard themselves as being concerned, was crucial because ratification helped to heightened public awareness and prevent such practices. By ratifying those conventions, States were taking part in international action against contemporary forms of slavery.

21. During the consideration of the implementation of the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, it was recalled that the International Federation of Human Rights had proposed the establishment of machinery for the follow-up and implementation of that Convention.

22. While some members of the Working Group stressed that such a proposal gave rise to problems because the 1949 Convention did not provide for any monitoring machinery, other members, supported by many participants, proposed the drafting of an optional protocol to the 1949 Convention which would unambiguously penalize the persons responsible for trafficking, protect the victims and request States parties to submit reports on the implementation of the Convention. The optional protocol might also allow the submission of individual complaints, with particular reference to the traffic in women and girls. The majority of the members nevertheless agreed that the human rights treaty monitoring committees could, in accordance with their mandates, consider the implementation of the provisions of the 1949 Convention which were similar to those of the conventions for which they were responsible. To that end, the Secretary-General might consider the feasibility of such a proposal and provide the Working Group with information on the general criteria of the international human rights instruments.

23. Following the discussion on the involvement of the various human rights committees in the consideration of the provisions of the 1949 Convention, the Working Group invited the Committee on the Rights of the Child to take part in its work. Mrs. Judith Karp, a member of the Committee on the Rights of the Child, was able to take part in one of the Working Group's meetings. She stressed the fact that the majority of the victims of contemporary forms of slavery were children and drew attention to the importance of cooperation between the Working Group and the Committee. Her participation in a meeting of the Working Group had given her a clearer idea of the Working Group's activities and had drawn her attention to the 1949 Convention. Since one of the tasks of the Committee on the Rights of the Child was to encourage States to ratify the various international instruments, the Committee might attach particular importance to the 1949 Convention. She suggested that the organizations which provided the Working Group with information and those which provided the Committee on the Rights of the Child with information should meet to exchange information that might be useful to the Working Group and to the Committee.

24. The members of the Working Group thanked Mrs. Karp for her availability and stressed the need for the two bodies to work together in close cooperation and to exchange all relevant information.

25. In connection with the consideration of the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, the Working Group had before it the report by the Secretary-General to the Sub-Commission (E/CN.4/Sub.2/1997/11).

26. Some participants considered that child prostitution should be regarded not as prostitution, but as one of the manifestations of the exploitation of children. According to the Special Rapporteur on the question of violence against women, moreover, pornography was the symptom and the cause of violence against women and, all the more so, of violence against children.

27. Mention was also made of the problem of the use of telecommunications, particularly the Internet, to promote child pornography. The members of the Working Group said that they were concerned about that matter; access by children to adult pornography could also encourage such practices. A non-governmental organization informed the members of the Working Group about the development of new technology that made it possible to detect any image suspected of being pornographic and to identify the person using the computer at the time when the image had been called up.

IV. UNITED NATIONS VOLUNTARY TRUST FUND ON CONTEMPORARY FORMS OF SLAVERY

28. In the context of the consideration of the situation of the Voluntary Trust Fund on Contemporary Forms of Slavery, the Working Group had before it document E/CN.4/Sub.2/AC.2/1997/4 containing the recommendations that the Board of Trustees of the Voluntary Trust Fund had made to the Secretary-General.

29. The members of the Working Group drew attention to the initiatives they had taken at their twenty-first session in order to find a solution to the problems faced by the Voluntary Trust Fund (E/CN.4/Sub.2/1996/24, paras. 22-34). The members of the Working Group welcomed the appointment of the Board of Trustees of the Fund by the Secretary-General and the holding of the third session of the Board of Trustees, which had recommended the participation of a number of non-governmental organizations and the modest financing of three projects.

30. The observer for the Board of Trustees of the Voluntary Trust Fund recalled that, despite financial and other difficulties, the Board of Trustees had been able to meet from 17 to 19 March 1997 and had decided to allocate all of the small amount at its disposal to various non-governmental organizations. The members of the Board of Trustees unanimously agreed on the need to subsidize non-governmental organizations which were active at the local level. The members of the Board of Trustees had, moreover, both jointly and individually intensified their efforts to find potential donors to contribute financially to the Voluntary Trust Fund. She stressed the need for cooperation between the Working Group and the Board of Trustees, as well as the importance of the participation of one or more members of the Board of

Trustees in the work of the Group. In that connection, a letter of invitation should be sent to the members of the Board in order to facilitate the visa formalities for members who would like to attend at their own expense. The problem of obtaining visas from the Swiss authorities, even when the request came from the United Nations, was raised on several occasions.

31. The observer for the Board of Trustees expressed the hope that the Working Group would draw the attention of the members of the Board to priority topics, or even to certain countries, so that they might take them into account in considering requests for subsidies. The fact of having a clear-cut and pre-defined plan of action could also be an asset in fund-raising and making potential donors aware of certain problems. It was recalled that the recommendations of the Board of Trustees that grants should be allocated to particular organizations were made on an entirely discretionary basis and that Governments were in no way involved in that choice.

32. In cooperation with the observers for the Anti-Slavery Society and Action for Children Campaign, the Working Group decided that the question of migrant workers, particularly female domestic workers, would be a priority topic at its next session. The regions to be considered as a matter of priority would be West and East Africa, Southern Asia, particularly Bangladesh, and South-East Asia, particularly the Philippines.

33. The Secretary of the Board of Trustees of the Voluntary Trust Fund stated that, as part of their fund-raising efforts, the members of the Board of Trustees had established contacts during the session of the Commission on Human Rights and had held an information meeting with potential donors. Some members of the United Kingdom Parliament were even in favour of the financing of the Fund. As part of efforts to increase public awareness, the Chairman of the Board of Trustees had taken the floor at the fifty-third session of the Commission on Human Rights to announce that $100,000 would enable the Fund to operate on a minimum basis.

34. The Secretary of the Board of Trustees also informed the Working Group of the participation in its work of five persons who represented six non-governmental organizations financed by the Fund. Those persons represented organizations in Nigeria, India, the Russian Federation, Cambodia and Mongolia.

35. Some participants drew the attention of the Working Group to the apparent contradiction that States which refused to finance the United Nations Voluntary Trust Fund earmarked large amounts for the International Programme on the Elimination of Child Labour set up by the International Labour Organization, despite the similarity of issues with which those two mechanisms dealt. As part of cooperation between the United Nations Voluntary Trust Fund and the ILO Programme, the latter might encourage private donors who proposed to finance it to contribute to the United Nations Fund, since the ILO Programme could not accept such private contributions.

36. The members of the Working Group recalled that, under the ILO Programme and contrary to the procedures of the United Nations Fund, programmes could not be set up without the consent of the States concerned. Moreover, donations to the ILO Programme came from the Ministries of Labour of donor

States, whereas contributions to the United Nations Voluntary Trust Fund came from Ministries of Foreign Affairs, which had to finance many more projects. Those elements might partly explain the contradiction that had been referred to.

V. REVIEW OF DEVELOPMENTS IN THE FIELD OF CONTEMPORARY FORMS OF SLAVERY AND MEASURES TO PREVENT AND REPRESS ALL CONTEMPORARY FORMS OF SLAVERY

A. Suppression of the traffic in persons and of the exploitation of the prostitution of others

37. Several participants spoke on the grave issue of the trade in women and young girls for the purposes of prostitution. The need was affirmed to protect the rights of those persons, to rehabilitate them and to return them to their country of origin only if they so wished. It was crucial for victims of trafficking and prostitution to be treated as victims and not as delinquents. It was essential in that respect to train civil servants dealing with such victims and to educate civil society. Studies conducted in Asia by a non-governmental organization had revealed that Governments appeared to be unaware of the situation of survivors of trafficking or of effective measures needed to combat it. There were said to be many women who had survived trafficking and who could not be repatriated because they were unable to establish their nationality. Within the framework of European Union activities, some participants submitted to the Working Group the European "Joint Action" to combat trade in human beings and sexual exploitation. That initiative had made it possible to set up interdisciplinary coordination among the different countries aimed at dealing with those problems and to arrive at a more precise definition of the notion of abuse of authority.

38. The attention of the Working Group was drawn to the increase in sex tourism. The fear of being infected with HIV was leading clients from industrialized countries to choose ever younger girls and boys as their victims. Some countries had taken steps to counteract this practice, especially Thailand, which, in 1996, had revised its law on prostitution. In that connection the members of the Working Group urged States to amend their laws to include the rule of extraterritoriality.

39. With the support of colleagues and of all participants, a member of the Working Group expressed deep concern over the corruption that was undermining all sectors of society and which was leading to the promotion and perpetuation of contemporary forms of slavery. The Working Group decided to include the effects of corruption as a factor conducive to exploitation among future topics for consideration.

40. The members of the Working Group again supported the idea of observing 2 December of each year as World Day for the Abolition of Slavery in all its Forms.

B. Illegal and pseudo-legal adoptions aimed at the exploitation of children

41. The members of the Working Group stated that they approved of the adoption of children, provided that it was in accordance with the basic principle of the child's best interests and that it was legal.

42. Some participants insisted that only illegal adoptions should be considered by the Working Group, since legal adoptions were by definition within the law. Some members of the Working Group suggested that identifying the reasons why some countries more than others were targeted by adoptive parents, would be helpful for preventing illegal adoptions. With regard to intercountry adoptions, most participants agreed that foreign parents should not systematically be viewed with suspicion, bearing in mind that in most cases adoption was in the interest of the child.

43. The members of the Working Group, who were in favour of a balanced and sensible approach and of combating "wild" and illegal adoptions, recalled that the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption was an international instrument, the ratification of which should be encouraged as a means of preventing and combating abusive adoptions, especially at the international level. The Working Group's recommendations should reflect a desirable balance between protecting the interests of the child and of sincere parents, and the struggle against any attempted trafficking.

C. Traffic in human organs and tissues

44. Participants again mentioned the difficulty of obtaining irrefutable proof of such traffic. The Working Group had before it the note by the Secretary-General concerning the traffic in organs, submitted to the fifty-third session of the Commission on Human Rights (E/CN.4/1997/78).

45. The members of the Working Group and participants agreed that the Working Group should continue to be vigilant. Two press cuttings were brought to the attention of the Working Group in that connection. The first reported that the Israeli Government had prohibited the transplantation of organs from living donors in order to avoid abuses. The second had to do with the introduction of a computer program on the Internet that would facilitate adoption formalities in Rio de Janeiro and which, according to the President of the Rio de Janeiro Tribunal, would help stem the traffic of children and of organs. The observer for Brazil stated that his Government denied the existence of any traffic in organs involving his country. An inquiry had failed to substantiate any of the allegations made in that regard. Adoption formalities in Brazil were designed to safeguard the child and promote the principle of the best interests of the child.

D. Bonded labour and child labour

46. As it did each year, the Working Group examined agenda items 5 (d) and 5 (e) together, because their subject matter was closely related. Many Governments and non-governmental organizations had submitted information considered very useful by the members of the Working Group.

47. Most of the observers for the non-governmental organizations participating in the session recognized that the countries that had to deal with the problem of child and bonded labour had passed constructive legislation to counteract those practices. Nevertheless, those laws were not being applied effectively, if at all. Moreover, the Governments were trying to conceal their lack of political will behind the pretext of poverty and the shortage of funding. The observers believed that poverty could not be used to justify everything, though they all agreed that it was one of the causes of exploitation, especially since the bad distribution of wealth throughout the world and within individual societies was an inescapable fact.

48. The observers for the non-governmental organizations said that in order to eliminate child and bonded labour, it would not be enough merely to turn the children concerned out on the streets; they should be given the possibility of receiving proper, full-time education. There was no doubt that child labour fuelled adult illiteracy and led eventually to the perpetuation of that kind of labour. Countries grappling with a serious problem of child labour were thus caught in a vicious circle of illiteracy, of child labour involving ever younger children, and of poverty. They all remained convinced that the solution for children was education and schooling.

49. Some non-governmental organizations reported on bonded labour in Nepal, India, Pakistan and other Asian countries. A study conducted in some countries in Asia and Latin America, such as the Philippines, India, Nepal, Indonesia, Peru, Paraguay and Bolivia, reported that the indigenous populations in those countries were the victims of slavery-like practices, ranging from the sexual exploitation of women and children to bonded labour and even bondage.

50. The observers for India and Pakistan each gave detailed reports on legislative and other measures that their countries had adopted and implemented to combat the scourge of bonded and child labour. The members of the Working Group then called upon countries facing similar problems to take all appropriate steps, both nationally and internationally. The Working Group therefore appealed for the strengthening of international cooperation in this field.

51. The members of the Working Group acknowledged that the fight against child labour called for medium- and long-term as well as short-term measures. While the ultimate goal was to eradicate child labour, that goal was still a long-term one. Therefore, although the Working Group members encouraged all measures aimed at eliminating child labour, they had to take account of the fact that thousands, if not millions of children were still working as a matter of necessity. In the practical experience of many participants, it was not enough to "free" children from work; they had to be offered hope for the future, and their families had to be given the immediate means of survival. The Working Group therefore reiterated that in cases where children had no alternative but to work, such work should be done only under the strictest possible conditions in order to protect the children and promote their rights. The members of the Working Group then discussed the question of the minimum working age, recalling the need to implement ILO Convention No. 138 concerning the minimum age for admission to employment.

52. Some participants welcomed the fact that some countries acknowledged being confronted with the problem of bonded and child labour. It was an attitude that made for dialogue and was encouraging in terms of finding a solution to the problem.

E. Forced labour

53. Some non-governmental organizations raised the matter of civilians detained by Japan during the Second World War, repeating their request to the Japanese Government for an official apology and the payment of compensation to the victims and their families.

F. Migrant workers

54. In examining the situation of migrant workers, the Working Group paid special attention to the question of domestic workers, in particular young girls. On the recommendation of some non-governmental organizations, the Working Group decided to give priority to the consideration of the question of domestic and migrant workers at its next session.

55. Among the non-governmental organizations receiving funding from the Voluntary Trust Fund, those that were operating in India and Nigeria stated that there were millions of domestic workers in those countries, that 90 per cent of them were women and that 50 per cent were under 18 years of age. Those workers had no rights and became the property of their employers, who could use them as they pleased.

56. Some speakers noted that among the forms of labour exploitation identified by the ILO, four were described as the most intolerable forms of child labour, namely, debt bondage, child prostitution, hazardous occupations and domestic work.

57. The members of the Working Group recalled that at the twenty-first session, they had been given disturbing information concerning the status, or lack of status, of migrant workers, in particular of domestic workers in several Western European countries. They recognized that safeguarding the rights of those persons required protecting their rights as workers and, in most cases, protecting their rights as women as well.

58. The ensuing debate left the Working Group even more convinced of the need to give priority attention to migrant and domestic workers.

G. Activities of the Special Rapporteur on the sale of children, child prostitution and child pornography and World Congress against Commercial Sexual Exploitation of Children

59. Because of the great similarity between those two topics, both concerning the exploitation of children and sexual exploitation in particular, speakers often dealt with them together. The Working Group had before it the latest report submitted by the Special Rapporteur (E/CN.4/1997/95) and the Declaration and Agenda for Action adopted by the Stockholm Congress (A/51/385, annex).

60. The members of the Working Group reiterated their strong condemnation of such practices and expressed their concern over the persistence of and even the increase in the exploitation and sexual and other abuse to which children were subjected.

61. At the proposal of a member of the Working Group, the question as to whether or not the topic of paedophilia should be placed on the Group's agenda for its next session was discussed. Following some opposition, which was withdrawn in the light of the explanations given, the members of the Group decided, in view of the scale of the problem of paedophilia and the need to arrive at a better understanding of the motives of such child abusers, to place the subject on their agenda for the next session. They also issued an appeal to anyone having information on the subject to share that information with the Working Group.

62. The non-governmental organizations established in Cambodia, Mongolia and Nigeria, subsidized by the Voluntary Trust Fund, painted a fairly gloomy picture of the situation of child prostitution and the trade of children for the purposes of sexual exploitation. Seven-to-eight-year-old girls were being forced into prostitution and most of them were contracting the AIDS virus. In some countries the laws against child prostitution were not adequate and, even where they were, they were not being applied effectively or strictly. Speakers recalled that girl prostitutes should be considered and treated as victims of prostitution rather than delinquents. The law was often harsher on prostitutes than on procurers. The victims of prostitution should be rehabilitated and, when they so desired, should be repatriated to their country or region of origin. The observer for Nigeria recalled that his country had enacted laws to combat the trade and sexual exploitation of children and had ratified the relevant international instruments.

63. Some speakers said it was important to create machinery for the follow-up of the Stockholm Congress. They thought that as part of its work, the Working Group could encourage and evaluate initiatives to combat the sexual exploitation of children. Some Working Group members expressed regret that the Stockholm Congress had restricted itself to exploitation for commercial purposes, to which it was replied that the Congress had not in practice restricted itself to exploitation for commercial purposes, but had covered a broader range of forms of exploitation.

64. The reports on the subject furnished by non-governmental organizations financed by the Voluntary Trust Fund were welcomed for their good quality and because they provided the Working Group with information on countries about which it generally had very limited data. Such contributions to the Working Group's activities were to be encouraged.

[illegible]. The Working Group once again stated that the sexual exploitation of children, girls and boys, remained a key item on its agenda. Sex tourism, as a factor which aggravated such exploitation, required constant vigilance. Encouragement was to be given to the promulgation of laws making it possible to penalize individuals for offences of that kind committed abroad.

H. Activities of the Special Rapporteur on violence against women, its causes and consequences

66. As each year for the previous five years, the question of the women referred to as comfort women during the Second World War was examined by the Working Group, and a lengthy debate took place between the parties concerned.

67. The creation of an Asian Women's Fund was again discussed. The countries from which victims originated and most of the non-governmental organizations present reiterated their strong opposition to any compensation being financed by that Fund. In their view, the Fund, 50 per cent of which came from private capital, would enable the Government of Japan to evade its legal obligations by refusing to acknowledge its international responsibility and by refusing to compensate victims individually. Moreover, the Government of Japan was said to be still concealing much of the documentation on crimes committed during the Second World War. Attention was again drawn to the conclusions of the report of the Special Rapporteur on violence against women, which had described such acts as "war crimes" and as "military sexual slavery".

68. The observer for Japan and two representatives of the Asian Women's Fund recalled the various initiatives and measures that had been taken to help the so-called comfort women. A brief review was given of the legislative initiatives taken by the Parliament of Japan. It was also recalled that a Centre for Historical Documents on Asia had been created under the Asian Women's Fund. The observer for Japan and the representatives of the Fund said that the Asian Women's Fund had been established as a result of an appeal launched by Japanese civil society and was therefore a means through which all Japanese could express their remorse to all victims, and not at all a way for Japan to evade its responsibilities. The Fund was reported to have paid out money to 27 victims. The observer for the Philippines confirmed that compensation had been paid to victims from her country and expressed her support for the initiative.

69. In adopting the Working Group's recommendations, the countries opposed to Japan's policy on the matter expressed their displeasure and their opposition to the wording used, which described as positive the developments taking place in regard to the question of the so-called comfort women.

70. The members of the Working Group recalled that their recommendations had been arrived at by consensus. They noted that although the situation had not been resolved definitively, it had evolved in a way that pointed towards a solution satisfactory to all the parties concerned. It was urgent for the victims to be compensated expeditiously, as most of them were elderly women living in difficult circumstances. The Working Group stated that it had played its role more than honourably, which had been to provide the concerned parties with a forum for discussion and to encourage the adoption of a rapid and satisfactory solution. The Working Group called on the parties concerned to continue their joint quest for a solution that was acceptable to all.

71. Although some issues remained in suspense, many participants believed that the informal consultations and the discussions held under the auspices of the Working Group had been extremely useful.

72. In regard to the question of violence against women during the Second World War, some participants, with the support of members of the Working Group, emphasized that the discussion should not be restricted to the question of comfort women, but should also include the violence and abuses systematically inflicted on women and girls during armed conflicts. The Working Group should consider measures likely to prevent such abuses.

I. Other matters, including early marriages, incest and detained juveniles

73. In order to allow the non-governmental organizations sufficient time to obtain enough information on such sensitive subjects as early marriage and incest, the members of the Working Group decided to consider those issues only every other year.

74. Information concerning trafficking in children in West Africa was submitted by a non-governmental organization active in Togo. The traffic involved children from Togo destined for Ghana, Côte d'Ivoire, Burkina Faso and other countries in Africa. The organization called for coordination and cooperation among the countries in the region, the non-governmental organizations and other institutions with a view to drawing up a regional plan of action to combat the exploitation and trafficking of children in West Africa.

75. The Working Group received reports on the deteriorating situation in regard to slavery in the Sudan. The non-governmental organizations denounced the Government's policy of violence designed to dismantle the country's society. Forced labour, kidnappings and other abuses were also being committed there. The observer for the Sudan denied those reports, claiming that a campaign was being waged against his Government, orchestrated by the media and certain countries. He recalled that during the twenty-first session the members of the Working Group had been invited to visit the Sudan and that the invitation was still open.

76. The members of the Working Group pointed out that the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan had visited that country in response to an invitation. They thanked the Sudanese Government for its invitation to the members of the Working Group and said that they wished to discuss the follow-up to the invitation in private, bearing in mind the terms of reference of the Working Group and the financial implications of such an invitation.

77. A non-governmental organization reported that slavery was continuing in Mauritania. As there was no observer for Mauritania present, the Working Group decided to convey to the Mauritanian Government the content of the communication received from the organization.

78. The members of the Working Group also discussed the elaboration of optional protocols to the Convention on the Rights of the Child by the two working groups set up by the Commission on Human Rights. The Working Group urged the two groups to complete their work as quickly as possible, in the interest of children. As regards the Working Group on a draft optional protocol on involvement of children in armed conflicts, the members of the

Working Group on Contemporary Forms of Slavery said that they were convinced that the minimum age for the participation of children in armed conflicts should be raised to 18.

79. Having regard to the Working Group on a draft protocol concerning the sale of children, child prostitution and child pornography, it was recalled that Governments were still in disagreement on a number of points. Those included the scope of application of the future protocol, more specifically the question as to whether the definition of the sale of children should be limited to sexual exploitation or should include other aspects. While some participants suggested that the Working Group on Contemporary Forms of Slavery could make a positive contribution to the debate by stating its opinions, others believed that such intervention could further complicate negotiations or even exacerbate discussions. The members of the Working Group unanimously acknowledged that it would be wiser to allow the working group established for that purpose to find the appropriate solutions.

VI. RECOMMENDATIONS ADOPTED AT THE TWENTY-SECOND SESSION

A. General considerations

80. The Working Group on Contemporary Forms of Slavery considers that slavery, in its various forms and practices, is a crime against humanity and that any acquiescence by a State in such practices, irrespective of whether it has acceded to the conventions on slavery or any other relevant conventions, is a violation of basic human rights.

81. A review of the information provided to the Working Group showed that despite the progress made in the protection of human rights and the preservation of human dignity all over the world, various forms of slavery still existed and new insidious forms of slavery were emerging. The Working Group considered in particular the questions of child and bonded labour, sexual exploitation, especially of children, the traffic in persons, migrant and domestic workers, sexual violence during wartime and the activities of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery.

82. The Working Group welcomed the participation of an increasing number of government representatives and non-governmental organizations in its session, and thanked them for their valuable contributions to its work. It noted with appreciation the contribution of the representative of the International Labour Organization. It welcomed the participation of an expert member of the Committee on the Rights of the Child and encouraged such participation at its future sessions. The Working Group also encouraged such cooperation with other human rights mechanisms with related activities. In order to enrich the debate, the Working Group expressed the hope that representatives of UNESCO and WHO, as well as the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on violence against women would also attend its future sessions.

83. The Working Group congratulated all participants on the fruitful dialogue, the spirit of cooperation they had demonstrated and the positive atmosphere in which the deliberations had been conducted.

B. Recommendations

84. The following recommendations were adopted by the Working Group at its twenty-second session.

1. General

The Working Group on Contemporary Forms of Slavery,

Having devoted its twenty-second session to an overall evaluation of various contemporary forms of slavery,

1. Expresses its gratitude to all participants for information relating to all forms of exploitation;

2. Considers that poverty and ignorance are the main causes of contemporary forms of slavery, and urges the specialized agencies to give particular attention to poverty as a factor leading to or perpetuating slavery and slavery-like practices and to include in their technical assistance programmes activities designed to eliminate slavery and slavery-like practices;

3. Calls on all United Nations specialized agencies to cooperate with the Working Group and to coordinate their activities in seeking an integrated approach to the various problems in the fields of slavery and the slave trade, including slavery-like practices in all their manifestations;

4. Considers that effective measures should be taken to assist in protecting the rights of those suffering from contemporary forms of slavery by drawing upon the expertise of, and improving coordination and cooperation between, different United Nations bodies, organs and legal instruments dealing, directly or indirectly, with issues relating to contemporary forms of slavery;

5. Welcomes the important role that non-governmental organizations play in raising awareness of the provisions of the conventions on slavery, in particular the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949, as well as in monitoring their implementation;

6. Requests the Secretary-General to invite news agencies, the press, television and radio to contribute to the rapid elimination of slavery in all its contemporary forms by ensuring wide and effective publicity about existing cases of slavery, the slave trade, other slavery-like practices, trafficking in persons and exploitation of the prostitution of others, as well as the activities of the Working Group on Contemporary Forms of Slavery in this field, and also requests that a similar campaign of awareness be promoted by the Department of Public Information of the Secretariat;

7. Expresses its appreciation to the Secretary-General for the establishment of the list of States which have not yet ratified or acceded to the conventions on slavery and requests him to continue providing the members of the Working Group with such a list;

8. Notes that the status of ratifications of the two main conventions on slavery is still unsatisfactory;

9. Requests the Secretary-General to invite annually States which have not ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956 to consider ratification and to establish an informal dialogue with the Working Group on the issue;

10. Calls upon all States to respect the provisions of the above-mentioned conventions and requests the Secretary-General to invite them to submit to the Working Group regular information on the situation in their countries;

11. Recommends that the Sub-Commission on Prevention of Discrimination and Protection of Minorities continue to examine ways and means of monitoring the implementation of the Convention of 1949 and encourage the treaty bodies to pay particular attention to relevant provisions similar to those of the 1949 Convention;

12. Regrets that public opinion preoccupied with slavery and slavery-like practices lacks information on the precise content of the related conventions;

13. Recommends that the United Nations Educational, Scientific and Cultural Organization, in cooperation with the Centre for Human Rights and concerned non-governmental organizations, prepare a simplified presentation of the conventions for local populations;

14. Encourages States to promote the dissemination of information on the conventions;

15. Recommends once again that the General Assembly consider proclaiming 2 December as the day for the abolition of slavery in all its forms, bearing in mind the persistence and seriousness of these phenomena.

2. United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

The Working Group on Contemporary Forms of Slavery,

Recalling the close relationship between the activities of the Working Group and the Trust Fund, and the necessary cooperation between them,

Welcoming the appointment by the Secretary-General of the members of the Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery,

Welcoming also the holding of the third session of the Board of Trustees (17-19 March 1997), which recommended that the Secretary-General invite six representatives of non-governmental organizations to attend the twenty-second session of the Working Group, and that he finance three projects,

1. Expresses its appreciation of the participation of the representatives of non-governmental organizations financed by the Trust Fund and of their valuable contribution to the work of the Working Group;

2. Calls for follow-up of the activities of those non-governmental organizations financed by the Trust Fund;

3. Thanks the Chairman and the members of the Board of Trustees of the Fund who attended the Session for their constructive participation in the work of the Working Group;

4. Expresses its support to the members of the Board of Trustees for their work, in particular their fund-raising activities;

5. Urges all Governments, governmental and non-governmental organizations, private institutions and private individuals to respond favourably to requests for contributions to the Trust Fund in order to enable the Fund to fulfil its mandate effectively;

6. Invites the representative of the Trust Fund to participate at the twenty-third session of the Working Group;

7. Decides to continue to examine the situation and the activities of the Trust Fund at the twenty-third session of the Working Group.

3. Prevention of the traffic in persons and exploitation of the prostitution of others

The Working Group on Contemporary Forms of Slavery,

Convinced that the traffic in persons and prostitution are prejudicial to the dignity and worth of the human person,

Considering the necessity of promoting the implementation of international norms and standards on trafficking in persons and exploitation of the prostitution of others and of strengthening the mechanism of implementation provided for in the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949,

Welcoming the outcome of the World Congress Against Commercial Sexual Exploitation of Children, held at Stockholm from 27 to 31 August 1996,

Expressing concern at information at the European level on the adverse effect on children of new technologies, such as the Internet, which promote, inter alia, child pornography and sex tourism,

Concerned at the use of adult pornography to entice children to enter into pornography and prostitution,

1. Recalls the adoption by the Commission on Human Rights of the Programme of Action for the Prevention of the Traffic in Persons and the Exploitation of the Prostitution of Others (E/CN.4/Sub.2/1995/28/Add.1);

2. Recommends that the Commission on Human Rights request the Secretary-General to invite all States to inform the Working Group every two years of measures adopted to implement the Programme of Action and of the efficacy of such measures;

3. Recommends that Governments prohibit advertising or publicizing sex tourism and other commercial activities involving sexual exploitation;

4. Encourages Governments, in cooperation with the World Health Organization and the Joint United Nations Programme on HIV/AIDS, to establish specific projects for the protection of victims of traffic in persons and of prostitution from the risk of HIV infection and the spread of AIDS;

5. Urges States, in cooperation with the United Nations Educational, Scientific and Cultural Organization, to introduce and reinforce education programmes alerting children to the risks of sexual exploitation and the consequences for individuals and for society of such exploitation;

6. Recommends that States take urgent measures, including measures of criminal law and of cooperation with other States, designed to protect minors from exposure to or involvement in pornography, and requests the Secretary-General to invite States to provide information on measures taken or already applicable;

7. Invites the Secretary-General, in cooperation with the International Telecommunication Union, to continue to examine the adverse effect on children of new technologies, such as the Internet, that are used to promote, inter alia, child pornography and sex tourism;

8. Recommends that appropriate institutions for the prevention of prostitution be established at the national level in order to assist in the rehabilitation and reintegration of victims of prostitution;

9. Welcomes the positive measures taken by the World Tourism Organization and professionals in the field of tourism to combat sex tourism, and encourages the reinforcement of such activities;

10. Decides to continue consideration of the issues of traffic in persons, prostitution and sex tourism at its twenty-third session.

4. Illegal and pseudo-legal adoptions aimed at the exploitation of children

The Working Group on Contemporary Forms of Slavery,

Considering that adoption, for those cultures which accept it, is a way of guaranteeing the overall development of the child, and that illegal adoption could violate one or all of his/her rights,

Concerned at the practice of illegal adoption or pseudo-legal adoptions aimed at the exploitation of children,

Noting the information received concerning cases of children adopted for commercial purposes or any other form of traffic,

1. Urges States to take adequate steps better to regulate and monitor intercountry adoptions, in particular by ratifying the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (1993);

2. Decides to continue to give consideration to this issue at its next session.

5. Traffic in human organs and tissues

The Working Group on Contemporary Forms of Slavery,

Concerned at information alleging that children and adults are victims of, or even killed for, the removal of organs for the purposes of commercial transplants and non-therapeutic research,

Taking note of the adoption by the Council of Europe of a convention on human rights and biomedicine and the steps taken to develop a protocol on organ transplants,

1. Takes note of the report submitted by the Secretary-General in accordance with Commission on Human Rights resolution 1996/61 of 23 April 1996, in which the Commission requested the Secretary-General to examine, in cooperation with relevant United Nations agencies, in particular the World Health Organization, as well as the International Criminal Police Organization and all relevant non-governmental organizations, the reliability of allegations regarding the removal of organs and tissues of children and adults for commercial purposes in order to enable the Commission to decide upon possible follow-up in this matter (E/CN.4/1997/78);

2. Welcomes the adoption by the Commission on Human Rights of resolution 1997/20 of 11 April 1997, in which the Commission requested the Secretary-General to continue the examination of the reliability of allegations regarding the removal of organs and tissues of children and adults

for commercial purposes and to include an analysis of this question in an updated report, to be submitted to the Commission at its fifty-fifth session, in order to enable the Commission to decide whether continued attention to this question is required;

3. Encourages the World Health Organization to continue to pay special attention to this issue, welcomes once again the recommendation of the World Health Organization Advisory Committee on Health Research to set up a task force on organ transplantation, and notes the report of its first meeting, held in Annecy, France, on 10 and 11 October 1996;

4. Decides to continue to examine this matter in depth at its twenty-third session.

6. Eradication of bonded labour

The Working Group on Contemporary Forms of Slavery,

Recalling that poverty is one of the causes of bonded labour,

1. Welcomes the information on bonded labour provided by Governments and non-governmental organizations;

2. Takes note with satisfaction of the promulgation by certain States of laws against bonded labour, and appeals to their Governments to adopt all measures ensuring the full implementation of such laws;

3. Requests the specialized agencies, in particular the international financial institutions and the development agencies of the United Nations, to ensure that the projects they support do not, in any way, use bonded labour;

4. Recommends that Governments cooperate with trade unions and employers' organizations at the national level to address the problem of bonded labour and that trade unions and employers' organizations at the local, national and international levels utilize the existing structures of the International Labour Organization dealing with violations of the relevant conventions concerning forced labour, and encourages concerned non-governmental organizations to strengthen their activities for disseminating information and advising trade unions in this regard;

5. Decides to keep this question under consideration and to assess the progress achieved with a view to eliminating this intolerable practice.

7. Elimination of the exploitation of child labour

The Working Group on Contemporary Forms of Slavery,

Concerned at the persistence of the exploitation of child labour and debt bondage, and aware of the necessity of combating these phenomena,

Having considered the information submitted by States, specialized agencies and non-governmental organizations,

Noting with satisfaction the progress achieved in certain countries by the International Programme on the Elimination of Child Labour launched by the International Labour Organization and the initiatives taken by States in order to combat child bonded labour,

Welcoming the possibility of the drafting, under the auspices of the International Labour Organization, of a new instrument on intolerable forms of child labour,

Welcoming also the holding of the various regional conferences on child labour,

1. Urges all States, while attempting ultimately to eliminate the phenomenon of child labour, to adopt measures and regulations to protect child labourers, to ensure that their labour is not exploited and to prohibit their labour in hazardous occupations;

2. Urges States that have not yet done so to ratify the relevant International Labour Organization conventions, in particular the Forced Labour Convention, 1930 (No. 29) and the Minimum Age Convention, 1973 (No. 138);

3. Calls for international cooperation in order to assist States concerned in their struggle against bonded labour;

4. Requests the Secretary-General to invite all States to inform the Working Group of measures adopted to implement the Programme of Action for the Elimination of the Exploitation of Child Labour to report to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights at their next sessions;

5. Recommends that the Sub-Commission take appropriate action in this regard at its forty-ninth session.

8. Forced labour

The Working Group on Contemporary Forms of Slavery,

1. Reaffirms once again that forced labour is a contemporary form of slavery;

2. Decides to continue to give consideration to this issue at its next session.

9. Migrant workers

The Working Group on Contemporary Forms of Slavery,

Recalling the adoption by the General Assembly of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in its resolution 45/158 of 18 December 1990,

Noting that foreign migrant workers are frequently subject to discriminatory rules and regulations which undermine human dignity, including being forced to live separately from their spouses and their minor children, sometimes for extended periods, and that they are often victims of violence, racism and xenophobia,

Noting also, in particular, cases of migrant domestic workers who are unpaid, subject to various abuses and deprived of all their rights,

Welcoming Commission on Human Rights resolution 1997/15 of 3 April 1997, in which the Commission established a working group consisting of five intergovernmental experts on human rights and migrants,

1. Decides to give priority to the consideration of the question of domestic and migrant workers at its next sessions;

2. Also decides to continue to give particular attention to the situation of girl child domestic workers, and urges Governments to ensure that protective regulations govern their employment situation and provide for safe conditions of work;

3. Takes note of the difficult situation in which girl children are living and of the need for them to be provided protection with a view to ensuring their fullest human development and participation in the life of their community;

4. Urges States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

5. Also urges States to take necessary measures to prohibit and sanction the confiscation of passports belonging to migrant workers, in particular, migrant domestic workers;

6. Strongly condemns practices of unequal treatment of migrant workers and the denial of their human dignity;

7. Welcomes the conclusions and recommendations of the United Nations seminar on immigration, racism and racial discrimination held in Geneva from 5 to 9 May 1997, and requests the Secretary-General to disseminate them widely;

8. Recommends that non-governmental organizations pay attention to the grave problems affecting migrant workers and provide the Working Group with information in this regard;

9. Recommends that the Sub-Commission on Prevention of Discrimination and Protection of Minorities consider this issue at its forty-ninth session.

10. Sale of children, child prostitution and child pornography

A

Special Rapporteur on the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes

The Working Group on Contemporary Forms of Slavery,

Having considered the report submitted by the Special Rapporteur on the sale of children, child prostitution and child pornography to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/95),

1. Takes note of the information on these problems submitted by the participants at its twenty-second session, and requests the High Commissioner/Centre for Human Rights to transmit the information to the Special Rapporteur, along with the recommendations relating to her mandate;

2. Requests the Special Rapporteur, within the framework of her mandate, to continue to pay attention to issues relating to the traffic in children, such as organ transplantation, disappearances, the purchase and sale of children, adoption for commercial purposes or exploitation, child prostitution and child pornography;

3. Strongly encourages the Special Rapporteur to participate in the twenty-third session of the Working Group, in view of the importance of her contribution to its deliberations;

4. Encourages all Governments to consider the creation of programmes aimed at the social rehabilitation of children involved in prostitution.

B

Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography

The Working Group on Contemporary Forms of Slavery,

Having considered the report of the Secretary-General on the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography (E/CN.4/Sub.2/1997/11),

Taking into account Commission on Human Rights resolution 1997/78 of 18 April 1997, in which the Commission, inter alia, decided to request the working group on the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, to meet for one week prior to the next session of the Commission, in order to finalize the draft,

1. Encourages the working group on a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography to continue its work in elaborating a draft

optional protocol, and calls upon that working group to outline a framework for international cooperation to bring to an end all practices relating to the sexual exploitation of children, including child sex tourism;

2. Requests the Secretary-General to invite all States to continue to inform the working group of measures adopted to implement the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography.

C

Commercial sexual exploitation of children

The Working Group on Contemporary Forms of Slavery,

Having considered the Declaration and Agenda for Action of the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996,

Recognizing that the convening of the World Congress was an important step in the struggle against sexual exploitation of children,

Concerned at information concerning child victims of paedophilia,

1. Welcomes the dissemination of the Declaration and Agenda for Action of the World Congress against Commercial Sexual Exploitation of Children;

2. Calls upon all States to muster the political will to give priority to this issue and to initiate through national debate and an intersectoral dialogue a process which moves from deploring the issue to the urgent adoption of a national agenda for action that includes the gathering of gender-disaggregated data, indicators of progress, national monitoring mechanisms and sets goals and a time-frame for its implementation;

3. Calls for increased cooperation and for concrete action-oriented measures between States and international organizations;

4. Decides to examine follow-up activities to the World Congress against Commercial Sexual Exploitation of Children and, in particular, the issue of paedophilia at its twenty-third session.

11. Elimination of violence against women

A

Violence against women

The Working Group on Contemporary Forms of Slavery,

Taking note of the reports submitted by the Special Rapporteur on violence against women, its causes and consequences to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/47) and by the Special

Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict to the Sub-Commission at its forty-eighth session (E/CN.4/Sub.2/1996/26),

Taking note also of the information received concerning the sexual exploitation of women, as well as other forms of forced labour, during wartime,

Recalling that sexual slavery, rape, exploitation and abuse of women and girls continue to occur in all types of armed conflict,

1. Decides to give more priority to exploring preventive measures for the elimination of violence against women, in particular in situations of armed conflict;

2. Welcomes the work of the Special Rapporteur on violence against women, and takes note of her report;

3. Invites Governments, intergovernmental organizations and non-governmental organizations to disseminate widely the report of the Special Rapporteur and to implement the recommendations contained therein;

4. Decides to pay special attention to the next report of the Special Rapporteur, which will focus on violence against women during armed conflict;

5. Decides to transmit the information received concerning the sexual exploitation of women and other forms of forced labour during wartime to the Special Rapporteurs on the question of impunity of perpetrators of violations of human rights, the Special Rapporteur on violence against women and to the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict;

6. Welcomes Sub-Commission resolution 1996/11 of 23 August 1996, in which the Sub-Commission requested the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict to submit her final report to the Sub-Commission at its forty-ninth session in conformity with the plan contained in her working paper (E/CN.4/Sub.2/1995/38), and requests the Secretary-General to transmit the study to the Working Group at its next session;

7. Invites the Special Rapporteur on violence against women and the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict to participate in the twenty-third session of the Working Group;

8. Decides to consider these issues at its next session.

B

Sexual slavery during wartime, in particular during the Second World War

The Working Group on Contemporary Forms of Slavery.

Having examined the developments on the issue of sexual exploitation of women during the Second World War,

Welcoming the open dialogue held under the auspices of the Working Group,

1. Takes note of the information provided by the Government of Japan, as well as by other parties concerned, with regard to action taken in relation to the issue of women sex slaves during the Second World War, recognizing the positive steps made so far towards the solution to this issue;

2. Encourages further efforts towards a constructive dialogue;

3. Invites the Government of Japan to continue to cooperate with the United Nations and the specialized agencies in this matter;

4. Decides to continue to consider this issue at its next session.

13. Miscellaneous

The Working Group on Contemporary Forms of Slavery,

Concerned at the practice of incest and sexual abuse of children inside the family, which is a common and most morally repugnant form of slavery,

Aware that the collection of reliable and sufficient information on early marriages, incest and other issues by non-governmental organizations is a time-consuming process,

1. Decides to biennialize the consideration of these items, including the consideration of ways to combat incest and sexual abuse of children inside the family, and the urgent need for adequate help to be offered to victims of such practices;

2. Urges Governments to make confidential facilities available for children to make disclosure of the situation and to obtain advice and assistance;

3. Urges Member States to take adequate steps to punish severely the perpetrators of this most heinous offence;

4. Requests the Secretary-General to seek the views and suggestions of Member States and of intergovernmental and non-governmental organizations on proposals for future action of the Working Group with a view to their replies being considered at forthcoming sessions of the Working Group;

5. Appeals to all Governments to send observers to the meetings of the Working Group;

6. Encourages youth organizations and young persons from various non-governmental organizations to participate in the meetings of the Working Group;

7. Recommends that the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, when examining the periodic reports of States parties, give particular attention to the implementation of, respectively, articles 8 and 24 of the International Covenant on Civil and Political Rights, articles 10, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights, article 6 of the Convention on the Elimination of All Forms of Discrimination against Women and articles 32, 34 and 36 of the Convention on the Rights of the Child, and to include in their guidelines an item concerning contemporary forms of slavery;

8. Recommends that the supervisory bodies of the International Labour Organization and the Committee on Conventions and Recommendations of the United Nations Educational, Scientific and Cultural Organization give particular attention in their work to the implementation of provisions and standards designed to ensure protection of children and other persons exposed to contemporary forms of slavery, such as the sale of children, child prostitution and child pornography, the exploitation of child labour, bonded labour and the traffic in persons;

9. Requests the Secretary-General to transmit to the committees mentioned above, the special rapporteurs concerned and the Working Group on Enforced or Involuntary Disappearances the recommendations of relevance to them and the report of the Working Group;

10. Welcomes again the adoption by the Commission on Human Rights of resolution 1996/61 of 23 April 1996, in which the Commission requested the Secretary-General to give effect to his decision to reassign to the Working Group a Professional staff member of the Centre for Human Rights, as was the case in the past, to work on a permanent basis to ensure continuity and close coordination within and outside the Centre for Human Rights on issues relating to contemporary forms of slavery;

11. Again requests the Secretary-General to designate the High Commissioner/Centre for Human Rights as the focal point for the coordination of activities and the dissemination of information within the United Nations system on the suppression of contemporary forms of slavery;

12. Recalls that the Economic and Social Council, in its resolution 1993/48 of 28 July 1993, approved the endorsement by the Commission on Human Rights of the recommendation made by the Sub-Commission, in its resolution 1992/2 of 14 August 1992, that the arrangements regarding the organization of the sessions of the Working Group, as contained in Commission decision 1992/115 of 3 March 1992, be repeated in subsequent years;

13. Recommends that the Sub-Commission, in arranging its agenda, make provision for adequate discussion of the reports of the Working Group near the commencement of each session, thereby strengthening its involvement in the activities of the Working Group.

Annex I

PROVISIONAL AGENDA FOR THE TWENTY-THIRD SESSION OF THE WORKING GROUP ON CONTEMPORARY FORMS OF SLAVERY

1. Election of officers.

2. Adoption of the agenda.

3. Review of the implementation of and follow-up to the conventions on slavery:

   (a) Status of the conventions;

   (b) Review of information received regarding the implementation of the conventions and programmes of action.

4. Review of developments in the field of contemporary forms of slavery and measures to prevent and repress all contemporary forms of slavery, including the struggle against corruption as a promoting factor of contemporary forms of slavery:

   (a) Economic exploitation:

      (i) Domestic workers and migrant workers;

      (ii) Bonded labour;

      (iii) Child labour;

      (iv) Forced labour;

   (b) Sexual exploitation:

      (i) Suppression of the traffic in persons and the exploitation of the prostitution of others;

      (ii) Sexual exploitation of children and activities of the Special Rapporteur on the sale of children, child prostitution and child pornography;

      (iii) Follow-up to the World Congress Against Commercial Sexual Exploitation of Children;

      (iv) Paedophilia;

   (c) Other forms of exploitation:

      (i) Illegal activities of certain religious and other sects;

      (ii) Illegal and pseudo-legal adoptions aimed at the exploitation of children;

(iii) Traffic in human organs and tissues;

(iv) Activities of the Special Rapporteur on violence against women;

(v) Miscellaneous.

5. Activities of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery.

6. Adoption of the report of the Working Group to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Annex II

LIST OF DOCUMENTS

1. The following documents were issued for the twenty-second session:

E/CN.4/Sub.2/AC.2/1997/1	Provisional agenda
E/CN.4/Sub.2/AC.2/1997/1/Add.1	Annotations to the provisional agenda
E/CN.4/Sub.2/AC.2/1997/2	Note by the Secretary-General on the status of the conventions
E/CN.4/Sub.2/AC.2/1997/3	Note by the Secretary-General on the status of the conventions
E/CN.4/Sub.2/AC.2/1997/4	Note by the secretariat on the recommendations adopted by the Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery at its third session
E/CN.4/Sub.2/AC.2/1997/5	Report of the Secretary-General on the review of developments in the field of contemporary forms of slavery and measures to prevent and repress all contemporary forms of slavery
E/CN.4/Sub.2/1997/11	Report of the Secretary-General on the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, submitted pursuant to Sub-Commission resolution 1996/12

2. The following documents were available for reference:

E/CN.4/Sub.2/1996/24	Report of the Working Group on Contemporary Forms of Slavery on its twenty-first session
E/CN.4/1997/47	Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy
E/CN.4/1997/95	Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos

E/CN.4/1997/97	Report of the Working Group on the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as basic measures needed for their eradication
A/51/385	Letter dated 19 September 1996 from the Permanent Representative of Sweden to the United Nations addressed to the Secretary-General on the promotion and protection of the rights of children
E/CN.4/Sub.2/1996/26	Preliminary report of the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict, Ms. Linda Chavez
E/CN.4/1997/76	Report of the Secretary-General on the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery
E/CN.4/1997/78	Note by the Secretary-General on Contemporary Forms of Slavery

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Agenda item 7

HUMAN RIGHTS OF INDIGENOUS PEOPLES

Report of the Working Group on Indigenous Populations on its fifteenth session

(Geneva, 28 July-11 August 1997)

Chairperson-Rapporteur: Ms. Erica-Irene A. Daes

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Introduction

Mandate

1. The creation of the Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982, and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In that resolution the Council authorized the Sub-Commission to establish annually a working group to meet in order to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind in particular the conclusions and recommendations contained in the report of the Special Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo, entitled "Study of the problem of discrimination against indigenous populations" (E/CN.4/Sub.2/1986/7 and Add.1-4);

(b) Give special attention to the evolution of standards concerning the rights of indigenous populations, taking account of both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world.

2. In addition to the review of developments and the evolution of standards, which are separate items on the Working Group's agenda, the Group has over the years considered a number of other issues relating to indigenous rights. The Commission on Human Rights in its resolution 1997/32 of 11 April 1997 welcomed the proposal of the Working Group to highlight specific themes of the International Decade of the World's Indigenous People. Furthermore, the Commission on Human Rights, in resolution 1997/30 of 11 April 1997, requested the High Commissioner/Centre for Human Rights to invite the Working Group to express its views on the report of the second workshop on a permanent forum for indigenous people and to submit its comments to the Commission at its fifty-fourth session. Finally, in decision 1997/114 of 11 April 1997, the Commission approved the appointment of Ms. Daes as Special Rapporteur on the study on indigenous people and their relationship to land and requested her to submit a preliminary working paper to the Working Group at its fifteenth session. All these questions were included in the provisional agenda prepared by the Secretariat.

I. ORGANIZATION OF THE WORK OF THE SESSION

A. Attendance

3. In its decision 1996/111 of 29 August 1996, the Sub-Commission decided on the following composition of the Working Group at its fifteenth session: Mr. Miguel Alfonso Martínez, Mr. Volodymyr Boutkevitch, Ms. Erica-Irene A. Daes, Mr. El-Hadji Guissé and Mr. Ribot Hatano.

4. The session was attended by Mr. Alfonso Martínez, Mr. Boutkevitch, Ms. Daes, Mr. Guissé and Mr. Hatano.

5. The following States Members of the United Nations were represented by observers: Algeria, Argentina, Australia, Bangladesh, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Denmark, Ecuador, Estonia, Ethiopia, Finland, France, India, Indonesia, Japan, Kenya, Malaysia, Mauritius, Mexico, Myanmar, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Russian Federation, South Africa, Spain, Sri Lanka, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

6. The following non-member States were represented by observers: Holy See, Switzerland.

7. The following United Nations bodies were represented by observers: Department for Development Support and Management Services, Department of Public Information, Office of the United Nations High Commissioner for Refugees, Sub-Commission on Prevention of Discrimination and Protection of Minorities, UNAIDS, United Nations Environment Programme.

8. The following specialized agencies were represented by observers: International Labour Organization, United Nations Educational, Scientific and Cultural Organization, World Bank, World Health Organization.

9. The following intergovernmental organizations were represented by observers: European Parliament, Pan American Health Organization.

10. The following national institution was also represented by an observer: Commission on Human Rights (Russian Federation).

11. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

(a) Organizations of indigenous peoples

Aboriginal and Torres Strait Islander Commission, Grand Council of the Crees, Indian Law Resource Centre, International Indian Treaty Council, Inuit Circumpolar Conference, International Organization of Indigenous Resource Development, National Aboriginal and Islander Legal Service Secretariat, Saami Council.

(b) Other organizations

General consultative status

Women's International Democratic Federation, World Wide Fund for Nature International, World Confederation of Labour, World Federation of United Nations Associations.

Special consultative status

Amnesty International, Baha'i International Community, Commission of the Churches on International Affairs of the World Council of Churches, Education International, Friends World Committee for Consultation, International Federation of Human Rights Leagues, International League for the Rights and Liberation of Peoples, International Service for Human Rights, International Work Group for Indigenous Affairs, North South XXI, Pathways to Peace, Society for Threatened Peoples, World University Service.

Roster

International Movement Against All Forms of Discrimination and Racism, Minority Rights Group, Survival International.

12. The following indigenous peoples' organizations and nations, as well as other organizations and groups, were represented at the session and provided information to the Working Group with its consent:

Abya Yala Fund, Adivasi Koordination Germany, Adivasi People, Adivasi Peoples Network Indian Conference of Indian and Tribal Peoples, African Centre for Democracy and Human Rights Studies, Agencia Internacional de Prensa Indígena, Ainu National Congress, Ainu Association of Hokkaido, Ainu Association of Reta, Ainu Association of Sapporo, Alianza del Clima, Alianza Mundial de Pueblos Indigenas de Bosques Tropicales, Altepetl Nahwas de la Montaña de Guerrero, Ambedkar Centre for Justice and Peace, American Friends Service Committee Pacific Program, American Indian Law Alliance, Arctic Council Indigenous Peoples' Secretariat, Asamblea Nacional Indígena Plural por la Autonomía, Asamblea Permanente de los Derechos Humanos de Bolivia, Asia Indigenous Peoples Pact, Asociación de Artistas Quilichao, Asociación de Desarrollo Comunal Indígena Nahuat - Sonsonate, El Salvador, Asociación Indígena de la República Argentina, Asociación Interétnica de Desarrollo de la Selva Peruana, Asociación Tohil Morales de los Niños Mayas de Guatemala, Assochesa People Nord, Association de soutien aux nations Amérindiennes, Association des femmes réfugiées de l'Azawadau Burkina Faso, Association for the Promotion of Batwa, Association for the Promotion and Redemption of Indigenous Cultures, Association info soutien aux indiens d'Amérique, Association of Norfolk Islanders, Association pour le développement global des Batwa du Rwanda, Aynu Associates, Big Mountain Action Group, Black Lake Denesutine First Nation, Bhoomi Sena, Boro Women Justice Forum, Borok People Human Rights Organisation, Budakattu Krishikara Sangha, Burma Peace Foundation, Cactus Valley/Redwillow Spring Sovereign Communities, Camtchadal, Canadian Friends Service Committee, Canadian Indigenous Womens Resource Institute, Cape Khoisan Cultural Heritage Development Council of South Africa, Centre for Indigenous Resources, Centre for Progress of Manipuri People, Centre for the Promotion of Human Rights and Protection of Nature, Centro Cultural Folklórico, Flor de Lirio, Argentina, Children Forum 21, Childrens Rights Research Project, Chime Gatsal Ling, Chin Nation Council, Chittagong Hill Tracts Students Council, Chukchi Council of Elders, Chukchi People of Pevek, Comisión de Asuntos Indígenas, Comisión de Asuntos Indígenas del Gobierno del Estado de Michoacán, Comisión Jurídica de los Pueblos de Integración Tahantinsuyana, Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos "CAPAJ", Comité

Belge-Amérique indienne, Comité de solidarité avec les Chiapas, Comité d'Etat pour les peuples indigènes du nord, Fédération de Russie, Comité intertribal, Comité social des Chagossiens, Committee on Human Rights, Communauté des autochtones rwandais, Community Arts Society of Norfolk Island, Communidad Indígena Amaicha del Valle Tucumán - Argentina, Conaie - Ecuador, Confederación de Pueblos Autóchtonos de Honduras, Confederated Salish and Kootenai Tribes of the Flathead Nation, Confederación Indígena Tayrona, Congrès mondial Amazigh, Congreso Nacional Indígena, Conseil indigène en Hollande, Consejo Aguaruna y Huambisa, Consejo de Apoyo al Consejo Indio de Sudamérica, Consejo de Todas las Tierras, Consejo Inter-Regional Mapuche, Conselho Indigena Tremembe, Consultative Committee of Finno-Ugric Peoples, Coordinación de Organizaciones del Peublo Maya de Guatemela, Coordination des peuples autochtones d'Amérique centrale et du sud, Coordination des peuples d'Amérique centrale et du sud Picsa, Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica, Coordinadora Nacional de Comunidades Campesinas Indígenas del Perú, Cordillera Peoples Alliance, Corporación Nacional de Desarrollo Indígena, Cultural Survival Canada, Deh Cho First Nations, Dupoto-E-Maa, Eastern Cherokee, Empire Washitaw de Dugdahmoundyah, Ethnic Minority Rights Organization of Africa, European Alliance with Indigenous People, Evenk, FAIRA, Fédération des organisations amérídiennes de Guyane, First Peoples of the Kalahari, Folil-Che Aflaihi - Nacion Mapuche, Foundation for Aboriginal and Islander Research Action, Fonds mondial pour la sauvegarde des cultures autochtones, Fundación internacional Lelio Basso por el derecho y la liberación de los pueblos, Gran Fraternidad Universal, Griqua National Conference of South Africa, Hadza Peoples, Haudenosaunee Nation, Helmen, Homeland Mission 1950 Maluku, Human Rights International, Incomindios, Indian Confederation of Indigenous and Tribal Peoples, Indigenous Knowledge Programme, Indigenous Women Aboriginal Corporation, Indigenous Women's Network, Innu Council of Nitassinan, Insaf, Inter Mountain Peoples Education and Culture in Thailand Association, Inti, Institute for Ecology and Action Anthropology, Jumma People, Chittagong Hill Tracts, Jumma Peoples Network, Kinnapa Development Programme, Kingdom of Hawai'i Nation, Kirat Koyu Rais' Uplifting Association, Koordinatoriu of Sibirie, Kuru Development Trust, Lakota Nation "Hunkpapa" Human Rights, Lakota National Aim, Lao Human Rights Council Inc., L'auravetl'an Foundation, Leonard Peltier Defense Committee, Lubicon Cree/Dene Nation, Lumad Mindanao Peoples Federation, Maa Development Association Kenya, Manab Adhikar Sangram Samiti, India, Manitoba Métis Federation, Mapuche International Link, Mohawk Nation, Montagnard Foundation Inc., Mouvement culturel Berbere, Movement for the Survival of the Ogoni People - MOSOP, Movimiento Indio Tupaj Amaru, Movimiento Indio Tupak Katari-1, Movimiento Revolucionario Tupaj Katari de Liberación, Naga Peoples Movement for Human Rights, Naga Vigil Human Rights Group, National Committee to Defend Black Rights Aboriginal Corporation, National Socialist Council of Nagaland, Nenetz, Nepal Federation of Nationalities, New South Wales Aboriginal Land Council, Ngaiterangi Iwi Incorporated Society, Nitassinan Csia, Nuba Moutain Solidarity Abroad, Oglala Lakota Nation, Ojibway Nation, Organización Amaro Runa, Organización Mapuche Legun Lugan, Organización Nacional Indígena de Colombia, Organization for Survival of Illaikipiak Maasai, Parlamento Aymara y Cidsa Pueblo Indio, Parlamento Indígena Americano, Paul First Nation Alberta Canada, Peabody Watch Arizona, Prince Albert Grand Council, Pueblo Pehuenche - Red Internacional de Apoyo, Rehoboth Community of Namibia, Relmu Mapuche Chile, Revolutionary Committee Movements (RCM), Revolutionary Peoples Front, Roseau River Anishinabe First Nation, Saddle Lake Cree Nation, Sagkeeng First

Nation, Schichting Cabinda Irij, Shimin Gaikou Centre, Shorsk, South East Treaty Four Tribal Council, Southern Kalahari San Association, Sovet Itelmens Kamchatka, Survie Touaregue Temoust, Teton Sioux Nation Treaty Council, Tibetan Centre for Human Rights and Democracy, Tibetan Women's Association, Tibetan Youth Congress, Traditions pour demain, Tripura People's Democratic Front, Tuscarura Nation, Unión de Comunidades Indígenas Wixarikas de Jalisca México, United Liberation Front of Assam, United National Liberation Front of Manipur, Urbanized Indigenous of the Muscogee Creek, Watu Acción Indígena, West Papua Peoples' Front, Working Group of Indigenous Minorities in Southern Africa, !Xu Khwe Association, Zemamahuatl.

13. In addition to the above-mentioned participants, 42 individual scholars, human rights experts, human rights defenders and observers attended the meetings. A total of 887 persons attended the fifteenth session of the Working Group.

B. Documentation

14. The following documents were prepared for the fifteenth session of the Working Group:

Provisional agenda (E/CN.4/Sub.2/AC.4/1997/1);

Annotations to the provisional agenda (E/CN.4/Sub.2/AC.4/1997/1/Add.1);

Supplementary working paper by the Chairperson-Rapporteur, Ms. Erica-Irene A. Daes, on the concept of "indigenous people" (E/CN.4/Sub.2/AC.4/1997/2);

Note by the Secretariat on information received from indigenous peoples and non-governmental organizations (E/CN.4/Sub.2/AC.4/1997/3/Add.1);

Note by the Secretariat on health and indigenous peoples (E/CN.4/Sub.2/AC.4/1997/4);

Note by the Secretariat on the International Decade of the World's Indigenous People: Voluntary Fund for the International Decade of the World's Indigenous People (E/CN.4/Sub.2/AC.4/1997/5);

Draft report of the Second Workshop held in accordance with Commission on Human Rights resolution 1997/30 (Santiago, 30 June-2 July 1997) (E/CN.4/Sub.2/AC.4/1997/CRP.1);

Preliminary working paper on indigenous people and their relationship to land submitted by the Australian delegation (E/CN.4/Sub.2/AC.4/1997/CRP.2);

Preliminary working paper on Indigenous people and their relationship to land prepared by Ms. Erica-Irene Daes, Special Rapporteur (E/CN.4/Sub.2/1997/17 and Corr.1).

15. The following background documents were made available to the Working Group:

Report of the Working Group on Indigenous Populations on its fourteenth session (E/CN.4/Sub.2/1996/21 and Corr.1);

Supplementary report of the Special Rapporteur, Ms. Erica-Irene A. Daes, on protection of the heritage of indigenous people (E/CN.4/Sub.2/1996/22);

Third progress report submitted by Mr. Miguel Alfonso Martínez, Special Rapporteur on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1996/23);

Report of the Secretary-General on activities undertaken and information received in pursuance of Commission resolution 1996/41 on a permanent forum for indigenous people in the United Nations system (E/CN.4/1997/100);

Report of the High Commissioner for Human Rights and the Coordinator of the Decade (E/CN.4/1997/101).

Report of the working group established in accordance with Commission on Human Rights resolution 1995/32 (E/CN.4/1997/102);

Draft declaration on the rights of indigenous peoples as agreed upon by the members of the Working Group at its eleventh session (E/CN.4/Sub.2/1994/2/Add.1);

Commission on Human Rights resolution 1995/32 on the establishment of a working group to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994;

Commission on Human Rights resolution 1997/30 on a permanent forum for indigenous people in the United Nations system;

Commission on Human Rights resolution 1997/31 on the working group to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994;

Commission on Human Rights resolution 1997/32 on the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the International Decade of the World's Indigenous People;

Commission on Human Rights decision 1997/112 on the protection of the heritage of indigenous people;

Commission on Human Rights decision 1997/113 on the study on treaties, agreements and other constructive arrangements between States and indigenous populations;

Report of the Board of Trustees of the Voluntary Fund for Indigenous Populations on its tenth session (UNVFIP/BT/1997/7);

Report of the Advisory Group of the Voluntary Fund for the International Decade of the World's Indigenous People on its second session (VFIP/AG/1997/12).

C. Adoption of the agenda

16. The Working Group held nine public meetings during its fifteenth session, of which three were extended.

17. At its 1st meeting, the Working Group considered the provisional agenda (E/CN.4/Sub.2/AC.4/1997/1). Mr. Guissé proposed that the title of agenda item 5 (a) should be changed to "Environment, land and sustainable development". Mr. Alfonso Martínez proposed that the title of agenda item 6 should be changed to "Consideration of the third progress report and the final report of the Special Rapporteur of the Sub-Commission on treaties, agreements and other constructive arrangements between States and indigenous populations". Agenda items 5 (a) and 6 were amended accordingly, and the provisional agenda was adopted unanimously.

D. Opening of the session

18. A representative of the Office of the High Commissioner for Human Rights opened the fifteenth session of the Working Group on Indigenous Populations. He provided the Working Group with information about the progress made since the last session on indigenous issues within the United Nations human rights programme, notably the second workshop on a permanent forum for indigenous people in the United Nations system, which was held in Santiago from 30 June to 2 July 1997. The Secretary-General had appointed the following individuals as members of the Board of Trustees of the Voluntary Fund for Indigenous Populations for three-year terms. Ms. Tove Sövndahl Petersen (Denmark/Greenland), Mr. Ole Ntimama (Kenya), Ms. Victoria Tauli-Copuz (Philippines), Ms. Nina Pacari (Ecuador) and Mr. Michael Dodson (Australia). Concerning the High Commissioner/Centre for Human Rights Indigenous Fellowship Programme, running from 1 July to 31 December 1997, four indigenous persons from Brazil, India, Japan and the Russian Federation had been invited to spend six months at the High Commissioner/Centre for Human Rights to receive human rights training and gain practical experience. The open-ended inter-sessional working group of the Commission on Human Rights on the draft United Nations declaration on the rights of indigenous peoples had held its second session in October 1996.

19. In her opening statement the Chairperson-Rapporteur, Ms. Erica-Irene A. Daes, paid tribute to the memory of all the indigenous persons who had lost their lives struggling for freedom, independence, and protection of their national and cultural identity. She also paid tribute to the indigenous peoples and non-governmental organizations that had initiated the first International NGO Conference on Indigenous Peoples in the Americas which took place at the Palais des Nations in September 1977. She gave an overview of the developments that had taken place with regard to the protection of indigenous rights and the solutions of problems concerning

indigenous peoples since that Conference. The establishment of the Working Group on Indigenous Populations in 1992, today one of the largest human rights meetings on the international calendar, must be regarded as one of the great achievements in that regard.

20. Focusing on the achievements of the Working Group, the Chairperson-Rapporteur identified the draft United Nations declaration on the rights of indigenous peoples and the three studies on treaties, cultural heritage and indigenous land rights as being of vital importance for indigenous peoples and Governments. She expressed satisfaction with the growing involvement of indigenous people within the United Nations system, including at high-level conferences such as the World Conference on Human Rights, the United Nations Conference on Population and Development, the Fourth World Conference on Women and the World Summit for Social Development. The voices of indigenous peoples were now being heard, directly or indirectly, at every level of the United Nations system, and indigenous peoples are listened to with respect and greater understanding than 20 years ago.

21. The proclamation by the General Assembly of the International Year (1993) and the International Decade of the World's Indigenous People (1995-2004), with the full and free participation of indigenous peoples, was being of great importance in the promotion and protection of indigenous rights. The two voluntary funds were also major achievements: the Voluntary Fund on Indigenous Populations, with the mandate to assist indigenous people with their travel to the Working Group on Indigenous Populations and the working group of the Commission on Human Rights on the draft declaration, and the Voluntary Fund for the International Decade of the World's Indigenous People, with the mandate to assist in the promotion and implementation of indigenous projects and programmes during the Decade. She expressed gratitude to the Governments, non-governmental organizations and individuals who had contributed to the voluntary funds.

22. Finally, the Chairperson-Rapporteur addressed the establishment of a permanent forum for indigenous people within the United Nations system. There had been substantial progress on this matter since the World Conference on Human Rights first recommended in 1993 that consideration be given to the establishment of a permanent forum. The international community had recognized that indigenous peoples needed a permanent institutional mechanism which allowed them to participate fully in the work of the United Nations, in particular with respect to such matters as development, and to contribute effectively to the consideration of issues related to standard-setting activities of indigenous peoples.

II. STANDARD-SETTING ACTIVITIES: EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLES

23. At its fourteenth session, the Working Group on Indigenous Populations decided to recommend to the Sub-Commission that it transmit Ms. Daes' working paper on the concept of "indigenous peoples" (E/CN.4/Sub.2/AC.4/1996/2) to Governments, intergovernmental organizations and indigenous peoples requesting their comments, and to request the Chairperson-Rapporteur to prepare a supplementary working paper on the basis of the information received for submission to the Working Group at its fifteenth session. Furthermore, the

Working Group decided at its fourteenth session to continue its consideration of the concept of "indigenous peoples" at its fifteenth session under the agenda item on standard-setting.

24. In its resolution 1996/31, the Sub-Commission expressed its appreciation to the Chairperson-Rapporteur for her working paper and approved the above-mentioned recommendation by the Working Group. The recommendation was also approved by the Commission on Human Rights in its resolution 1997/32. In introducing the agenda item on standard-setting activities at the fifteenth session of the Working Group, the Chairperson-Rapporteur presented her supplementary working paper (E/CN.4/Sub.2/AC.4/1997/2).

25. Ms. Daes gave a brief overview of the supplementary working paper and told the Working Group that she had not received any further information or comments during the last 12 months. Her position was unchanged with regard to a definition of "indigenous peoples": no single definition could capture the diversity of indigenous peoples worldwide, and it was not desirable or possible to arrive at a universal definition at the present time.

26. The observer for Switzerland underlined the importance of improving the existing minimum standards pertaining to indigenous rights. With regard to the concept of "indigenous peoples", it was necessary to have a pragmatic approach; self-identification was therefore better than a sterile and formal discussion on a definition.

27. The observer for Finland congratulated and thanked the Chairperson-Rapporteur and endorsed her conclusions. He agreed that there should not be a single legal definition of indigenous peoples at the international level at this time, although a definition might be required at the national level. There was no formal definition of "minorities" or "peoples" in international law, and indigenous rights therefore also could be implemented without a formal universal definition of "indigenous peoples". Furthermore, the working definition of indigenous peoples contained in the Martínez Cobo report, including elements such as self-identification and acceptance by the group, was sufficient to identify who constituted an indigenous people.

28. The observer for Bangladesh stated that the position of his Government remained unchanged with regard to the definition of indigenous people. A definition was needed in order to provide the necessary focus required for standard setting. However, the diversity was so wide that a restrictive definition should not be attempted. Consideration should be given to replacing the term "indigenous" with another term which could be defined more effectively.

29. Many indigenous participants expressed their full support for the conclusions contained in the Chairperson-Rapporteur's supplementary working paper and reiterated that it was neither desirable nor necessary to arrive at a universal definition of indigenous peoples. Some indigenous representatives noted that neither the term "peoples" nor the term "minorities" had been defined in international law. Thus, indigenous rights could also be implemented without a clear definition. It would be discriminatory if "indigenous peoples" alone needed to be defined. Some indigenous

representatives also said that the criteria in the Martínez Cobo report were adequate to determine whether a person or community was indigenous or not. One participant referred to the concept of indigenous as defined in International Labour Convention No. 169.

30. Some indigenous participants also said that indigenous peoples, as distinct peoples, had rights to the term "peoples" as well as to self-determination. Moreover, it was not for Governments to determine who constituted a nation or a people, but for the peoples themselves to decide. The right of self-identification was identified by many indigenous representatives as being crucial.

31. An indigenous participant from Asia said that there were many different groups of indigenous peoples in Nepal, but that they were known as "nationalities" in the Nepalese context.

32. An indigenous participant from North America informed the Working Group that the Inter-American Commission on Human Rights of the Organization of American States had completed its preparation of a proposed inter-American declaration on the rights of indigenous peoples. On 5 June 1997, the OAS General Assembly adopted a resolution which instructed the Permanent Council to study the proposed draft declaration. The resolution provided for State observations and recommendations to be transmitted by 31 December 1997. That will be followed by a review by the Inter-American Juridical Committee and the Inter-American Indian Institute. Finally, the resolution instructed the Permanent Council to convene a meeting of government experts in the field with a view to the possible adoption of the proposed declaration at the twenty-eighth session of the OAS which will take place in June 1998.

33. Mr. Alfonso Martínez expressed the view that it was not useful to define indigenous peoples, and that it was possible to have a United Nations declaration on the rights of indigenous peoples without a definition. In his view it would be totally misleading to use the term "indigenous peoples" in the context of practically all nations in Asia and Africa. He referred to his views on this issue as contained in his second progress report on the study on treaties (E/CN.4/Sub.2/1995/27). Finally, he mentioned the potential danger of the extensive use of the word "indigenous" for the present and future work of the Working Group.

34. Mr. Guissé said that although it was not possible to define indigenous peoples at the present stage, it would be useful to discuss the matter further. The aim of the future debate should not be to arrive at a definition of indigenous peoples in the classical sense, but to arrive at a legal and social framework which could be used as a reference, and to harmonize action and protect the rights of indigenous peoples. He also noted that the concepts of "people" and "peoples" had different meanings depending on the time and place being referred to.

35. Mr. Hatano said that he was not fully convinced that a definition of indigenous peoples was not required. However, he agreed with the view expressed by Ms. Daes that it was nearly impossible and not desirable to have a universal definition at this stage, although it might be necessary to define "indigenous peoples" within the next 30 years. The declaration on the rights

of indigenous peoples could and should be adopted by the General Assembly without having a definition of indigenous peoples. However, a definition would be necessary if the declaration was later incorporated into legally binding treaties.

III. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES

A. General

36. In opening agenda item 5, the Chairperson-Rapporteur invited all participants to provide information concerning recent developments pertaining to indigenous peoples and indigenous issues in their countries. She recalled that the Working Group last year had decided to highlight the theme "environment, land and sustainable development" at its fifteenth session. The main purpose of highlighting themes was to provide updated information and data on specific topics. Environment and land were vital concerns for all indigenous peoples and Governments.

37. The Commission on Human Rights, in its decision 1997/114, had approved the appointment of Ms. Daes as Special Rapporteur on indigenous people and their relationship to land, and requested her to prepare a preliminary working paper on the subject. The appointment had been endorsed by the Economic and Social Council at its last session. The working paper (E/CN.4/Sub.2/1997/17 and Corr.1) would be presented to the Working Group under the relevant sub-item. The Working Group had decided to continue its work on "indigenous peoples and health" at its fifteenth session, which was also a sub-item under the present agenda item.

38. The Chairperson-Rapporteur reminded all participants that the Working Group was not a chamber of complaints, and encouraged indigenous participants to avoid making any accusations against Governments.

39. Mr. Hatano said that, unfortunately, many non-governmental organizations reported only negative aspects of this agenda item. He concurred that the Working Group was not a forum for complaints and that criticisms of Governments should be made at the Sub-Commission under the relevant agenda items.

40. The Observer for Canada acknowledged that although there had been progress on a number of fronts, many challenges and issues continued to face the Government and the indigenous peoples in Canada. However, the Government was determined to continue to work together with indigenous peoples to make further progress on indigenous self-government and related issues. The observer described the major commitments that the Canadian Government had made to indigenous peoples of Canada and the ongoing negotiations between the Government and more than half of Canada's First Nations and Inuit communities concerning the implementation of indigenous self-government. Since 1996, several agreements had been signed with various indigenous groups including: a final agreement on education with the Mi'kmaq bands in Nova Scotia; a framework agreement with Treaty 3 Chiefs on governance issues across the treaty area; a sub-agreement on education with the Alberta Summit Chiefs;

and over 20 framework agreements with indigenous groups in British Columbia. Moreover, two self-government agreements were in place with Yukon First Nations, bringing the total of such agreements to six in that region of Canada.

41. The observer for Canada also said that Canada's policy on the inherent right of indigenous self-government included negotiation processes with Métis and off-reserve indigenous peoples. There were at present agreements for 10 such processes in 7 provinces across the country. These agreements were tripartite, involving the indigenous organizations, the respective provincial governments and the federal Government. The negotiations provided a forum for the two levels of government to work cooperatively with indigenous organizations to enhance the control and influence of indigenous peoples over issues and decisions that affected their lives.

42. The observer for the United States of America said that, inter alia, his Government maintained a government-to-government relationship with federally recognized tribes that had existed since the establishment of the United States. The Working Group was informed about the establishment of the Arctic Council, which is a high-level forum with the eight Arctic States (Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States) as members and with three Arctic indigenous organizations as permanent participants. The Arctic Council provided a means for promoting cooperation, coordination and interaction among the eight Arctic States, with the active participation of Arctic indigenous groups. Furthermore, the Council addressed on a regional basis issues of sustainable development and environment protection which were matters of particular concern to indigenous peoples.

43. The observer for Sri Lanka informed the Working Group of the decisions taken by the President of Sri Lanka pertaining to the Veddha community and their needs and traditional practices. The Government had accepted the principle that the Veddha community (Wanniyala Aetto) should be allowed the freedom to hunt and worship within their traditional hunting grounds and those carrying identity cards issued by the appropriate authorities would not be fined for carrying out those activities; the Government had issued the appropriate instructions to the Wildlife Department and other relevant authorities. Those decisions had been brought to the notice of the Veddha community and the President was expected to meet with the representatives of the Wanniyala Aetto shortly to discuss the possibility of arriving at a mutually acceptable long-term solution to their grievances.

44. The observer for Australia, said that indigenous people in Australia were generally poorer than the rest of the community. Overall, their standards of health and living conditions were unacceptably low. The Government had promised greater autonomy for the people of the Torres Strait and, as a first step, had passed legislation giving the Torres Strait Regional Authority a separate budget allocation from the Aboriginal and Torres Strait Islander Commission. By the end of the year 2000 the Torres Strait people were expected to determine their own priorities. The Government had significantly increased funding for indigenous-specific programmes over the next four years: it planned to spend some $420 million more on indigenous people than in the last four years. The observer also

highlighted the importance of the Australian reconciliation process, whose aim was justice and equity for all. The Working Group was also told about the special ministerial summit on aboriginal deaths in custody and the high Aboriginal and Torres Strait Islander incarceration rates, which was held in July 1997.

45. The observer for Australia also informed the Working Group about the Human Rights and Equal Opportunity Commission's National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their families which was tabled in the National Parliament in May 1997. The only aspect of the report on which the Government had indicated its position was the question of cash compensation: the Government did not believe that such compensation was an appropriate response.

46. The observer for New Zealand informed the Working Group about recent changes in the electoral system in New Zealand, and said that those changes had led to a significant increase in Maori representation. Special provision was made in the Electoral Act for Maori representation in Parliament. Maori have the option to enrol on either the Maori electoral roll or the general roll. Maori voters on the Maori roll elect representatives for Maori constituencies in Parliament. Under the new proportional representation system, the number of Maori seats in Parliament could vary depending on the number of Maori who chose to register on the Maori electoral roll. Maori made up about 13 per cent of the population and now a similar proportion of the seats in Parliament were held by Maori people, which was a notable development for Maori and for the democratic process in New Zealand. Of the 120 members of Parliament 15 were Maori; 5 of these MPs represented Maori constituencies, while the other 10 were elected either from general constituencies or as Party representatives. The new Government in New Zealand contains three Maori Cabinet Ministers, including the Deputy Prime Minister and Treasurer, the Associate Treasurer and the Minister of Maori Affairs.

47. The observer for New Zealand acknowledged that the Treaty of Waitangi was fundamental to the relationship between the Crown and the Maori, and said that the Government would continue to work towards its goals of achieving social and economic parity between Maori and non-Maori, and reaching fair and durable settlements for proven breaches of the Treaty.

48. The observer for Finland informed the Working Group about amendments to the Finnish legislation and Constitution whereby the Sami people was granted cultural autonomy in matters concerning the Sami language and culture within the Sami Homeland region. The Sami Parliament, the highest political body of the indigenous Sami people, had the responsibility to implement the autonomy arrangement.

49. The observer for the International Labour Organization (ILO) stated that the ILO was responsible for the only two conventions so far adopted concerning indigenous and tribal peoples: Convention No. 107 of 1957 concerning Indigenous and Tribal Populations, and Convention No. 169 of 1989 concerning Indigenous and Tribal Peoples. Convention No. 107 remained in force for 21 countries, while Convention No. 169 was also in force and so far had been ratified by 10 countries. However, he said that the practical influence of the ILO conventions, in particular Convention No. 169, went beyond the number

of ratifications. The Working Group was informed about the annual inter-agency consultations on indigenous peoples, aiming to coordinate technical work among United Nations agencies and organizations in this field. This year's meeting was convened by the ILO and focused on consultation and participation with indigenous and tribal peoples. The observer also informed the Working Group about a radio programme, developed by the ILO in cooperation with indigenous organizations in Costa Rica, explaining the objectives and scope of ILO Convention No. 169.

50. Many indigenous participants reported on oppression and denial of their rights to self-determination. Many indigenous participants also reported on the displacement of their communities from their lands as a result of development projects. Several indigenous participants reported on situations of assimilation. However, some indigenous participants informed the Working Group about progress made with regard to their situation and rights.

51. Many indigenous participants reported that the educational systems in their countries did not recognize or promote indigenous identities. Educational curricula should reflect the histories, cultures and traditions of indigenous peoples.

52. Some indigenous participants identified economic difficulties and poverty as critical issues. There was high indigenous unemployment in urban areas. Other indigenous participants spoke of the need to restore the human, social, cultural, civil and political systems of indigenous peoples.

53. A number of indigenous participants referred to specific violations of human rights in their countries. A member of the Twa people of Rwanda condemned the massacres in his region of which his people had been victims and urged a full inquiry without delay.

54. A representative of the Naga people informed the Working Group about the latest developments that had taken place between the Nagas and the Government of India. The Government and the National Socialist Council of Nagaland had announced a cease-fire with effect from 1 August 1997 and agreed on the following terms for the start of talks: (a) the talks shall be without conditions from both sides; (b) the talks shall be at the highest level, that is, at the level of the Prime Minister; and (c) the venue of the talks shall be anywhere outside India.

B. Environment, land and sustainable development

55. The Chairperson-Rapporteur of the Working Group, in her capacity as the Special Rapporteur on the study on indigenous people and their relationship to land, presented her preliminary working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1997/17 and Corr.1). She reiterated the importance of recognizing and securing indigenous land rights, and the need for continued dialogue between Governments and indigenous peoples on land rights matters. She also stressed that indigenous peoples had a very close relationship with their lands, territories and resources, and that this should always be kept in mind when discussing indigenous land rights. She expressed satisfaction with the fact that this special relationship was gradually being recognized by States and international organizations.

56. The working paper reviewed contemporary problems faced by indigenous people with regard to land and natural resources. Many States still failed to acknowledge the rights of indigenous peoples to their lands and natural resources. The working paper was a preliminary review only, addressing some of the key elements pertaining to indigenous land rights; the Special Rapporteur would present a final report during the coming year.

57. The observer for Brazil said that in recognition of the fundamental importance of land and environment for indigenous peoples, the Brazilian Constitution acknowledged indigenous peoples' "original rights" to lands they traditionally occupied. Those lands were intended for their permanent possession and they would have exclusive usufruct of the resources, the soil, the rivers and the lakes. Brazil recognized that land and environment were essential for ensuring healthy living conditions and for the sustainable development of indigenous peoples. Those elements constituted the bases for the physical and cultural survival of indigenous peoples as ethnically differentiated groups within the national society. The Brazilian Government was firmly committed to pursuing its constitutional obligations to protect indigenous people against acts of violence and to demarcate their lands. Those lands represented 11 per cent of the national territory - the equivalent of France and England together. The new administrative procedure for demarcation of indigenous lands was introduced by Decree No. 1775 of 8 January 1996 and allowed any claimant to provide evidence to sustain his or her claim pertaining to demarcated indigenous land. Pursuant to the relevant provisions, the Minister of Justice had examined 368 non-indigenous claims of objections regarding 26 indigenous areas. Altogether, 353 claims had been rejected, while the others had been sent to the National Foundation for Indigenous Affairs for further study.

58. The observer for Denmark expressed the view that it was essential that Governments, non-governmental organizations and intergovernmental organizations reaffirmed their commitment to the principles of sustainable use of natural resources, allowing indigenous peoples dependent on hunting, fishing and gathering to continue to develop their traditional subsistence activities regardless of whether they were conducted on land or sea.

59. The observer for Australia referred to the December 1996 decision by the High Court of Australia in the Wik case. The Court found that the grant of particular pastoral leases in the State of Queensland did not necessarily extinguish any native title and that the effect on any native title of granting a pastoral lease must be determined on a case-by-case basis. The decision's complex interaction with legislation, including the Native Title Act and the Racial Discrimination Act, had produced major difficulties and uncertainties for state and territory land administration, pastoralists, mining interests, other leaseholders and potential native title holders. He said that after intensive consultation with all parties, including indigenous interests, the Government had released draft legislation in response to the Wik decision for comment. He said the draft legislation was based on the non-extinguishment of native title of pastoral leases and met the legitimate needs of pastoralists while respecting native title.

60. The observer for Australia presented comments on the paragraphs of the preliminary working paper dealing with his country.

61. The observer for Finland said that the new legislation on Sami cultural autonomy did not include provisions pertaining to land rights, and that the current Finnish legislation did not acknowledge Sami land rights. The observer for Norway said that the Norwegian Sami Rights Commission, appointed in 1980 to examine the Sami people's land and water rights, had concluded its work with regard to the county of Finnmark. The Commission would now continue its study in other areas in Norway. She also informed the Working Group about the ongoing study on Sami customary law pertaining to land rights. The Norwegian Government would not allow any more environmental encroachments in Sami areas before the issue concerning Sami land rights was settled.

62. The observer for Malaysia said that the indigenous Bumiputras are much behind the non-indigenous in terms of economic well-being, and that the Government had therefore embarked on new initiatives to accelerate their socio-economic development, including the formulation of policies to ensure better legal protection of Orang Asli land.

63. Many indigenous participants congratulated and thanked the Special Rapporteur for her working paper and said that land and natural resources were the most fundamental concern of indigenous peoples around the world. Besides the question of self-determination, the access to land and control over it and its resources were central. Indigenous peoples depended on land for their material and cultural survival. Some indigenous participants said that in order to survive, indigenous peoples and their communities needed to be able to own, use, conserve and manage their land and natural resources.

64. Many indigenous participants reported to the Working Group that their rights to land and natural resources were not recognized. The fundamental underlying intent of national legislation was the dispossession of indigenous peoples' lands, territories and natural resources. Many indigenous representatives referred to the principle of terra nullius, which had been used to justify the negation of indigenous land claims.

65. Some indigenous participants focused on the issue of displacement and forced relocation of indigenous peoples from their native lands. This had became a global phenomenon in the recent past, and displacement and forced relocation of indigenous peoples coupled with inadequate rehabilitation had triggered a chain of other forms of displacement.

66. An indigenous participant from North America said that in regard to land, environment and development in the United States and South America, exploitation of indigenous peoples' resources, in particular gold mining, was the same as it was 100 or 200 years ago. The threats to indigenous peoples remained the same. Such development brought tides of settlers which threatened the peace and security as well as the health and welfare of indigenous communities. Moreover, the degradation of the environment continued to be a critical problem for indigenous peoples in the Americas.

67. An indigenous participant from Europe said that indigenous land rights, land use and resource management were the principal issues for the indigenous peoples of Finland, Norway, the Russian Federation and Sweden. The traditional indigenous way of life includes reindeer herding, fishing, hunting

and gathering. The respective national legislations did not grant land title to the indigenous people. There was also limited legal protection against external use of traditional indigenous lands which conflicted with indigenous interests. The established official opinion in those States was still that indigenous peoples were without any rights to land and that States, in annexing those lands within their respective national boundaries, had taken possession of "ownerless land".

68. Several indigenous participants focused on the situation concerning indigenous land rights in the Russian Federation. Lack of effective implementation of indigenous land rights was said to be a general problem for most of the indigenous peoples there. Although the Russian Constitution gave indigenous peoples certain rights, including the right to land and natural resources in their own regions, without the necessary political and legal implementation measures those rights did not have much practical value for the people concerned.

69. Many indigenous participants focused on the negative effects of development activities and projects such as road construction, mining, hydroelectric plants and geothermal schemes. Two planned hydroelectric plants in the Philippines and the Pangue and RALCO hydroelectric dams in Chile were cited in this regard. The construction of the Pangue hydroelectric dam in the Bio-Bio region and the RALCO project were said to be threatening the existence of the Mapuche Pehuenche communities. The establishment of the RALCO project, run by the Chilean National Electricity Company ENDESA, will flood approximately 3,400 hectares of Mapuche territory and 700 indigenous families will have to face displacement. Some indigenous representatives said that governmental policies and programmes often gave no consideration to the long-term consequences which indigenous peoples had to face.

70. The observer for Chile stated that the RALCO hydroelectric project had been approved by the National Corporation for the Environment after intensive study. It would be implemented in line with indigenous legislation, with full consultation, and offered opportunities for economic development.

71. Some indigenous participants said that the creation of forest reserves and game sanctuaries constituted a violation of indigenous land and resource rights. An indigenous participant from Africa said that most of the wildlife game parks in Africa were to be found in traditional Maasai lands. The parks threatened Maasai livelihoods, social structures, and thereby their very existence. An indigenous participant from Asia identified Government-sponsored programmes of non-indigenous settlement on traditional indigenous lands as the core problem in his region. Another indigenous participant from Asia said that some indigenous peoples in the forests were facing enormous difficulties because the ecological balance was being destroyed by development projects. He also said that material development had never been a problem for indigenous peoples as they adjusted their lives to the environment and used the natural products and resources without destroying the environment. It was noted that uneven development had created more social and political gaps between the mainstream and indigenous peoples.

72. An indigenous participant from Greenland informed the Working Group about an ongoing study on the possible storage of nuclear materials on traditional indigenous lands in Greenland.

73. An indigenous participant from Australia stated that the Government had prepared a legislative response to the Wik decision based on the Prime Minister's 10-point plan. The plan was not a product of negotiations with indigenous peoples. He informed the Working Group about draft legislation to amend the Native Title Act, which would be presented to Parliament later this year. He expressed the view that the legislation, if passed, would lead to widespread extinguishment of native title, removal of indigenous peoples' right to negotiate over areas, including pastoral leases, and in general reduce the ability of native title holders to protect and benefit from their title.

74. The Special Rapporteur on indigenous land rights was invited by indigenous representatives to visit Australia and Canada. She thanked the participants and stated that the dates for her visit would be fixed after the relevant consultations.

C. Health

75. The observer for Canada said that an important component of the Government's strategy in the health sector was increased community control of indigenous health programmes. Twenty-five per cent of Aboriginal Community Health Contributions had been transferred to communities, and 65 percent of First Nations were involved in the transfer process. All those initiatives were being undertaken within a time-frame determined in consultation with First Nations and Inuit people. In May 1997, Health Canada's Guidelines for Federal Self-Government Negotiators were approved. Negotiators can table the Guidelines at the outset of discussions with First Nations, Inuit and provinces/territories, to set the stage for more detailed negotiations on health service arrangements. Health Canada's primary interest was to increase jurisdiction and authority by indigenous peoples over their health systems, thereby respecting the indigenous approach to health and healing, while ensuring compatibility with other jurisdictions and maintaining access to mandatory health programmes and services.

76. The observer for Canada also reported that in the Yukon, transfer of all health service delivery from the federal to the territorial government was completed on 1 April 1997. The Canadian National Forum on Health had recommended the establishment of an Aboriginal Health Institute. Moreover, training of additional indigenous health workers was an important part of the ongoing process of transferring authority and increasing autonomy, as indigenous peoples were best able to integrate cultural and linguistic aspects into the planning of programmes.

77. The observer for Australia said that the problems in health, housing, education and employment facing Australia's indigenous peoples were not easy to solve. Indigenous health was a matter of grave concern, and the Government was committed to improving the health of Aboriginal and Torres Strait Islander peoples. The Government was targeting health, housing and education as priorities. The total federal funding for indigenous health will be $127 million in 1997/98, of which $5.25 million will provide access to primary health care for 35 additional communities. Moreover, $20 million had been set aside for the Aboriginal and Torres Strait Islander mental health action plan,

which will improve training of indigenous health and mental health workers and provide accessible and appropriate specialist mental health and clinical care services to Aboriginal and Torres Strait Islander peoples.

78. The observer for New Zealand said that although there had been developments in the area of Maori health in the past three years, Maori health continued to lag behind that of non-Maori. He identified certain developments pertaining to Maori health, including increased Maori participation in the provision of health services, identification of specific resources for Maori health development, further integration of culturally appropriate practices in the health sector, a framework for the improvement of Maori health, and a focus on health promotion and prevention strategies.

79. The Committee on Indigenous Health of the Indigenous People's Preparatory Meeting presented the following joint statement and recommendations:

> "(1) The Working Group on Indigenous Populations should continue to address indigenous peoples' health as a priority issue by maintaining it on the agenda of the Working Group on Indigenous Populations; (2) The Working Group on Indigenous Populations should make recommendations to the World Health Organization and other global agencies to engage in consultation and direct dialogue with indigenous peoples to formulate a plan of action with their participants: (a) to identify and prioritize the health issues and needs of indigenous peoples; (b) to examine existing policies and determine whether the needs of indigenous peoples are being adequately addressed; (c) to develop and implement programmes and policies that adequately and appropriately address the present health crises and future health needs of indigenous peoples; (3) Indigenous peoples should participate in discussions and formulate policy with the relevant United Nations programmes, agencies and units, inter alia World Health Organization, Convention on Biological Diversity, Food and Agriculture Organization, World Intellectual Property Organization, United Nations Environment Programme, United Nations Educational, Scientific and Cultural Organization and World Trade Organization, to facilitate and guarantee protection and enhancement, while combating exploitation of indigenous medicines, food, practices, systems and institutions; (4) The principles in the draft declaration on the rights of indigenous peoples should provide minimum standards as the basis for guidelines for these recommendations."

80. An indigenous participant from Australia spoke about the cruel, inhuman and degrading treatment that indigenous people very often suffered whilst in police custody or prison. Indigenous custodial deaths in Australia had reached a new record level: indigenous prisoners were dying at twice the rate of other prisoners.

81. An indigenous participant from Asia focused on the health situation of the Adivasi people in India. About 30 per cent of the Adivasi were suffering from ill-health and nearly 44 per cent of Adivasi children are suffering from malnutrition.

82. A Maori participant said that although there had been some decline in death rates for Maori, there were major causes for concern in areas such as sudden infant death syndrome and youth suicide. Furthermore, cancer still remained the leading cause of death and illness amongst Maori. Funding of Maori health services had not been increased by the Government for the past three years.

83. An indigenous participant from Africa reported on the poor health conditions of indigenous peoples. Indigenous peoples hardly had access to adequate medical treatment, due to a badly organized public health service. An indigenous representative from Canada reported that suicide rates among indigenous youth were four to six times higher than among non-indigenous people.

84. Some indigenous participants said that their traditional medical knowledge and plants were threatened because their lands and territories were being destroyed by farming and other development activities. Some indigenous representatives also said that the health situation of indigenous peoples was linked to the environment in which they lived. The close relationship indigenous peoples had with their traditional lands should always be taken into account when considering their health situation.

IV. STUDY ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS POPULATIONS

85. The Chairperson-Rapporteur, in introducing agenda item 6 entitled "Consideration of the third progress and final reports of the Special Rapporteur of the Sub-Commission on treaties, agreements and other constructive arrangements between States and indigenous populations", thanked and warmly congratulated the Special Rapporteur and invited Mr. Alfonso Martínez to present his reports.

86. The Special Rapporteur regretted having to inform the Working Group that owing to reasons beyond his control, he had been unable to present the last part of the study to the Working Group at its fifteenth session. He explained that the Commission on Human Rights, in its decision 1996/109, had asked the Special Rapporteur to include in the study a concrete example of implementation of a treaty concluded between an indigenous population and a State. He had approached the Government of New Zealand to express his interest in learning further about the Treaty of Waitangi, especially its contemporary significance. The Government of New Zealand had invited the Special Rapporteur to visit the country but, due to internal political reasons, namely elections and the establishment of a new Government, the Special Rapporteur was only able to visit New Zealand in May 1997. Consequently, there was not enough time to meet the deadline for submission of documents for the Sub-Commission. The information that he had gathered in New Zealand nevertheless merited deep consideration. The Special Rapporteur also remarked that at the 1996 session of the Working Group there had been almost no discussion of his third progress report. He therefore thought it helpful to provide an opportunity to discuss the report at the fifteenth session. The Special Rapporteur concluded by saying that he would complete and submit the study by the end of 1997 so it could be fully discussed at the Working Group's next session.

87. Mr. Guissé expressed his appreciation of and support for the work of Mr. Alfonso Martínez and emphasized the importance of including in the report the widest possible number of examples, even if this might imply an extension of the deadline.

88. Although some indigenous participants expressed disappointment about the fact that the report was not presented at the fifteenth session of the Working Group as expected, many underlined the significance of the study on treaties and expressed their hope that the report would be given the highest priority and would be ready by the end of 1997. The view was also expressed that treaties remained one of the best means of achieving equitable relationships between indigenous peoples and States. It was also essential to ensure that treaties were respected and implemented.

89. Some indigenous participants made specific suggestions. One was to review the status of the treaties made with indigenous people in order to express an opinion on whether those treaties were intended to be domestic arrangements or, rather, binding agreements between the parties. Another comment referred to the possibility of making some form of recommendation concerning whether it was fair for one party to unilaterally alter the obligations created by a treaty and, in the affirmative, what remedies could be considered to re-establish the original relationship. The Special Rapporteur was asked to consider whether Governments should be requested to consider reviewing their attitudes to treaties with a view to negotiating with the appropriate indigenous peoples practical steps that could be taken to put the parties to the treaties on an equal footing.

90. An indigenous participant from North America recommended to the Special Rapporteur that he monitor specific cases over the next five years and report on a yearly basis on the status of their implementation. The speaker also suggested that a body within the United Nations be established in order to report on a yearly basis about treaty violations.

91. In order for the final report to be as complete and detailed as possible, many indigenous organizations offered assistance to the Special Rapporteur and provided him with relevant documentation. In particular, an indigenous participant from South America informed the Special Rapporteur about the outcome of research his organization had been working on for three years, which resulted in the identification of seven important treaties between the Mapuche Nation and pre-independence and post-independence authorities in Chile, three of which had been translated and sent to the Special Rapporteur. Some indigenous participants also invited the Special Rapporteur to visit their territories in order to provide him with a better understanding of the local situation, thus facilitating his mandate.

92. The Special Rapporteur, taking into consideration the commitment and the expectations of most indigenous organizations, reiterated his apologies for the delay in the presentation of his final report. He had taken note of all the suggestions made and expressed particular interest in the proposal concerning the creation of a permanent forum to monitor and report on treaty violations.

V. INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE

93. The Chairperson-Rapporteur introduced item 7 entitled "International Decade of the World's Indigenous People" and invited Ms. Tove Petersen, member of the Advisory Group for the Voluntary Fund for the International Decade of the World's Indigenous People, to take the floor.

94. Ms. Petersen reported on the activities of the Advisory Group which met in Geneva in April 1997. In connection with the fellowships, the group considered it extremely important that each chosen fellow be able to share his or her experience with his or her community. Approximately 60 applications had been received, and she particularly encouraged women to apply in the future. The lack of funds allowed only a limited number of indigenous projects to be approved.

95. An indigenous participant from Northern Europe stated that the Decade offered an opportunity to establish an international framework for the recognition and safeguarding of the right of indigenous peoples to self-determination. In particular, the speaker, supported by other organizations, identified three priorities to be achieved during the Decade: the adoption of the draft United Nations declaration on the rights of indigenous peoples; the establishment of a permanent forum at the highest possible level within the United Nations system; and the establishment of networks to activate, increase and safeguard indigenous women's participation in political decision-making.

96. The observer for Canada said that his country was supporting the translation of the draft declaration on the rights of indigenous peoples into two Aboriginal languages as well as a "plain language" version of the document, in cooperation with the Inuit Circumpolar Conference in Canada and the Chiefs of Ontario. Canada had held regular discussions on the draft declaration with Aboriginal representatives. Also, a special exhibition on Aboriginal people today was being prepared for Canada's pavilion at Expo '98 in Portugal.

97. An indigenous participant from Australia, although noticing a significant slowing down of activity in this regard, reported on the development of an information kit on the draft declaration which, launched in September 1996, was currently available on the Internet and consisted of a plain language version of the document, a textual analysis, and information on the experience of indigenous peoples in the United Nations.

98. An indigenous participant from Latin America reported on information and communication activities. In particular, in August 1996, indigenous peoples, together with a Danish non-governmental organization, had organized the first meeting of indigenous peoples from the Americas. The meeting, "Abya Yala Visions", which was held in Copenhagen, was attended by more than 70 indigenous representatives from the Americas as well as representatives from the United Nations, the European Union, the ILO and others. The speaker also announced the opening of an international centre, supported by the Ayuntamiento de Vitoria-Gasteiz (País Vasco), which is meant to provide indigenous peoples with information and documentation, and gave some

information concerning the project Inkarri, aiming at providing indigenous peoples with their own site on the Internet. Finally, the speaker reported on the workshop for indigenous journalists, held in Madrid in the summer of 1996.

99. Some indigenous participants from the Russian Federation reported on activities carried out in the field of education. Despite the commitment of the Russian Federation, a slowing down of activities was reported, perhaps due to the financial crisis affecting the area. Concerns were also expressed regarding the possibility of a decreasing interest in the Decade on the part of the Centre for Human Rights as a result of the restructuring of the Centre itself.

100. The observer for Estonia made a short statement about the programmes adopted by the Government on the occasion of the Decade but regretted that a serious lack of funds had forced it to limit the number of activities.

101. An indigenous participant from North America, supported by other organizations, while acknowledging the establishment of the Voluntary Fund, lamented a lack of interest in the Decade on the part of both the United Nations and its Member States. An indigenous participant from Asia said that raising awareness in Asia had not yet been successful and proposed that the Working Group hold a formal meeting in Asia before the end of the Decade.

102. An indigenous participant from South America reported on some activities carried on in the field of indigenous rights and human rights: seminars and workshops had been organized and a number of publications had been distributed with a view to improving understanding of international legal instruments regarding indigenous peoples and monitoring their implementation. The speaker also suggested that a permanent human rights office be established in the Aymara territory of Janq'uchullpa (Bolivia, Chile and Peru) and, like many others, asked for stronger financial and technical support from the United Nations and its Member States.

103. Some indigenous participants from North America expressed concern about the environment and disappointment regarding the lack of implementation of the commitments made at the Rio de Janeiro Summit, and invited the indigenous peoples of the world as well as Member States to promote sustainable development.

104. The observer for Japan, although expressing appreciation for the development of the activities of the Voluntary Fund and commending the efforts made by the Advisory Group, asked for more transparency and for easier access to information concerning the Fund, especially with regard to its financial situation. The speaker also stressed the importance of better management for developing more activities and attracting more donations.

105. An indigenous participant from Northern Europe made a statement on behalf of several organizations about the drafting of some preliminary global guidelines on the working policies, practices and directives of transnational corporations operating in indigenous areas. The guidelines included several aspects: prior informed consent and consultation with indigenous peoples;

written agreements; compensation; monitoring and recourse; transparency; full application of corporate environmental policies. The speaker also asked for financial support from the High Commissioner/Centre for Human Rights in order to develop, adopt and implement the guidelines by the year 2000. The guidelines are contained in the annex to the present report.

106. An indigenous participant from Asia proposed revising existing policies to allow indigenous people to play a more active role in the management and implementation of activities affecting them. In particular, the speaker focused on: the development of assistance/aid through the organizations of the indigenous peoples themselves; the promotion of permanent forums for interreligious dialogue at national and international levels with the full participation of indigenous peoples; close cooperation and coordination with United Nations bodies and funding agencies.

107. An indigenous representative from Africa gave some information about research activities on indigenous and ethnic communities in Africa and asked the United Nations to call for a second African international conference in order to allow the different tribes, ethnic groups, indigenous communities, and cultural and social groups to determine the basis of their coexistence. Another speaker from the same region stated that the Voluntary Fund should be shared equally and insisted that indigenous representatives have access to the management committee.

108. Mr. Guissé expressed the view that the Decade should be seen as the framework within which to define indigenous issues clearly, in order to identify the goals to be attained and avoid confusion with other matters

VI. CONSIDERATION OF A PERMANENT FORUM FOR INDIGENOUS PEOPLE

109. The Chairperson-Rapporteur introduced item 8 entitled "Consideration of a permanent forum for indigenous people", and referred in particular to the second workshop on a permanent forum for indigenous people held in Santiago from 30 June to 2 July 1997. The workshop had been a great success with a debate at a high level. Detailed and substantive proposals had been made and a broad consensus was registered in favour of the establishment of the permanent forum. There also seemed to be agreement on some major elements such as the level within the United Nations system at which the forum would be situated and the broadening of the mandate with a view to covering all issues including development, environment, health and education as well as human rights. Furthermore, the proposal was sufficiently established for details to be elaborated by the Commission on Human Rights and the Economic and Social Council. Finally, Ms. Daes expressed the view that the United Nations reform could and should include in a concrete way a forum in which indigenous people could take up issues of concern.

110. The observer for Chile, on behalf of the Chairman of the workshop, stated that the meeting was well attended and had achieved broad agreement on some of the key matters. There appeared to be consensus that the proposed forum should have a wide mandate and that the principle of full participation of indigenous peoples in the permanent forum was essential to its success. The view was expressed that the forum should be established at the highest

level in the United Nations system, and most appropriately under ECOSOC. Also, it should be funded from the United Nations regular budget. Some concerns were expressed about the risk of a duplication of activities with the Working Group on Indigenous Populations, hence the importance of defining the respective areas of competence.

111. Mr. Kuupik Kleist, Rapporteur of the second workshop, on behalf of the Nordic countries, including the Nordic Saami Parliaments and the Greenland Home Rule Government, reiterated that the workshop had been a success: more than 100 participants, including more than 10 United Nations bodies, organizations and specialized agencies took part, demonstrating the growing interest in the matter. In the draft report of the workshop (E/CN.4/Sub.2/AC.4/1997/CRP.1), the view was expressed that there was a clear need for a permanent forum and that its mandate should be broad. Many participants considered that the forum should be composed of an equal number of governmental and indigenous representatives, around 20 overall, both groups with the right to vote. Members, who should be nominated by their regional groups, should represent a geographical balance. Although most participants thought that the forum should be funded from the United Nations regular budget, some considered that voluntary contributions should also be made available. The forum should be established at the highest level of the United Nations system, most appropriately directly under ECOSOC.

112. The observer for China agreed on the broadening of the mandate of the forum, stressed the need for financial support, and expressed the view that the forum should be a leading and implementing organ rather than just a drafting one.

113. The observer for Mexico shared the view expressed by the observer for China and added that the forum should be composed of both indigenous and governmental representatives and that it should be established at an appropriate level within the United Nations system, possibly under the Commission on Human Rights.

114. Some indigenous participants requested clarifications regarding the draft report of the workshop and explained that, in the light of Commission on Human Rights resolution 1997/30, they had expected a final report to be presented and not just a draft. Reference was also made to the annexes which were due to be attached to the report.

115. An indigenous participant from Australia recommended that a third workshop be held within a region where the indigenous peoples had as yet only a minimum involvement in United Nations structures and processes, in order to maximize their participation. Another speaker from the same region asked the Government of Australia to make a commitment to the Working Group to convene a third workshop and possible experimental first session of a permanent forum for indigenous peoples in Australia.

116. The observer for Spain, aware of the lack of an appropriate forum for indigenous peoples to exchange views within the United Nations system, expressed her full support for the establishment, by the end of the International Decade, of a permanent forum. The forum's mandate should be

broad and one of its main functions should be the elaboration of strategies aimed at developing indigenous communities within national, regional and global policies. The forum should also coordinate and monitor the activities planned and undertaken by Governments, United Nations specialized agencies and independent experts dealing with indigenous issues. The forum should be established under ECOSOC and should consist of an equal number of representatives from Governments and indigenous communities. She referred to the Fondo para el Desarrollo de los Pueblos Indígenas de América Latina y el Caribe as a possible model. The forum should be funded from the United Nations regular budget and by voluntary contributions.

117. The observer for Switzerland warned of the risk of duplication of activities undertaken by other United Nations agencies and stressed the importance of clearly defining the areas of competence. The speaker expressed the view that the forum should be established in Geneva, within the Commission on Human Rights.

118. Many representatives of indigenous organizations agreed that the forum should be established under ECOSOC, although different opinions were expressed: one representative of an indigenous organization stated that it should be established directly under the Secretary-General; another considered that it should be under the General Assembly. As for its location, some speakers suggested Geneva, others New York.

119. There was a strong feeling among participants that the mandate of the permanent forum should be as broad as possible in order to include human rights, education, environment, health, development, cultural issues, as well as conflict prevention and resolution. The mandate should reflect indigenous traditions. The terms of reference should enable it to enact measures and sanction violations like an independent judicial tribunal, and it should be capable of taking decisions and making recommendations. An indigenous representative suggested that it could undertake a study on the effects on indigenous peoples of developments carried out on their lands by multinational companies. In order to increase awareness about indigenous issues, a proposal was made with reference to the drafting of an annual report.

120. Many indigenous participants stated that the forum should be open and accessible to every community. One said that the forum should be a forum of indigenous peoples, on indigenous peoples, run by indigenous peoples. It was therefore crucial that indigenous representation be on an equal footing with Governments. Some participants expressed the view that independent experts might represent a third component of the body. Others suggested that representatives of United Nations specialized agencies should also participate in the forum.

121. Many participants suggested that the forum be funded from the United Nations regular budget, together with voluntary contributions both from Governments and from indigenous peoples themselves.

122. Two new proposals were also made, one referring to the creation of a High Commissioner for Indigenous Peoples whose main task would be to promote, protect and monitor human, civil, social and cultural rights, in particular

the right to self-determination of indigenous peoples. An indigenous representative from North America asked that the Working Group recommend the immediate establishment of an advisory post within the Office of the Secretary-General to coordinate and strengthen the response of the United Nations on indigenous issues in the light of the establishment of a permanent forum within the United Nations.

123. Mr. Alfonso Martínez raised a number of questions relating to the establishment of a permanent forum. He was of the opinion that no hasty decision should be taken on this very complex issue. As far as its institutional nature was concerned, it was necessary to clarify whether the forum would be an executive or deliberative body with either an administrative or a monitoring function. Another important issue was the forum's relationship with the Working Group. On the composition of the forum, the speaker suggested that it might be useful if a way other than consensus were used to take decisions concerning its membership.

124. The Chairperson-Rapporteur stated that it was time the competent organs and bodies of the United Nations considered the establishment of a permanent forum. The two workshops had provided sufficient information and data concerning the mandate, membership, participation and competence of the permanent forum. It should be financed from the United Nations regular budget.

VII. OTHER MATTERS

125. The Chairperson-Rapporteur, introduced item 9 entitled "Other matters".

126. An indigenous participant from South America called for the organization of more workshops to be held in different countries all over the world. Two representatives from North and South America respectively complained about the role of the United Nations which was considered to be too weak; one of them lamented the paternalistic approach of the United Nations towards indigenous issues; the other stressed the need for the United Nations to take a more active role along with its speciliazed agencies, in particular as far as the voluntary funds were concerned.

127. The observer for the Documentation Centre for Indigenous Peoples (DoCip) described the activities of its technical secretariat and its work, in particular, its efforts to enhance communication and raise awareness through the publication of information sheets about policies and activities undertaken by governmental and non-governmental organizations in English, French, Spanish and Russian. The observer also referred to the documents listed in its homepage on the Internet.

VIII. CONCLUSIONS AND RECOMMENDATIONS

A. Standard-setting

128. The Working Group reaffirmed its view that the agenda item on standard-setting constituted a fundamental part of its mandate.

129. The Working Group welcomed the exchange of views regarding the concept of "indigenous peoples" and noted the general consensus among the participants that a definition of "indigenous peoples" at the global level was not possible at this time, and certainly not necessary for the adoption of the draft United Nations declaration on the rights of indigenous peoples.

130. The Working Group decided that at its sixteenth session it would discuss under this item of its agenda possible future standard-setting activities, in particular guidelines or codes of conduct for private sector energy and mining concerns. It therefore decided to include on the agenda of the next session a sub-item entitled "Possible future standard-setting activities, including guidelines or codes of conduct for private sector energy and mining concerns".

B. Review of developments

131. The Working Group restated its view that the agenda item on "review of developments" was a vital, positive and constructive part of its mandate. It further noted that the agenda item provided a unique opportunity internationally for indigenous peoples, Governments and United Nations bodies and specialized agencies to exchange views and information and to build understanding.

132. The Working Group expressed its gratitude to all participants for their efforts to attend and make contributions to its work. The difficulties and expenses of travel by indigenous representatives were acknowledged.

133. The Working Group also welcomed the participation of observer Governments, including several high-level representatives, their continuing involvement and the detailed information they provided to the Working Group. In this respect the Working Group warmly welcomed Senator John Herron, the Minister of Aboriginal and Torres Strait Island Affairs of Australia.

134. The Working Group expressed its appreciation to the World Health Organization for its continuing support and involvement in the issue of indigenous peoples and health both in the plenary sessions and in the informal special activities which took place outside the conference room. It also welcomed the participation of other organizations of the United Nations system in particular the International Labour Organization and their positive and constructive contributions.

135. The Working Group considered that the debate on the sub-items relating to "environment, land and sustainable development" and the working paper of the Special Rapporteur on the study on indigenous people and their relationship to land provided comprehensive information to members and participants. It was noted that there continued to be serious problems for indigenous peoples in this regard. However, certain developments described by observer governments confirmed a growing concern and commitment to resolving land issues.

136. The Working Group decided to recommend to the Sub-Commission that it invite Governments, the United Nations system, indigenous and non-governmental organizations, as well as relevant academic institutions to contribute

information concerning land rights to the Special Rapporteur on the study on indigenous people and their relationship to land prior to the sixteenth session of the Working Group.

137. The Working Group decided to highlight the issue of "indigenous peoples: education and language" at its sixteenth session with the understanding that participants can refer to general issues in their statements. In this regard it decided to encourage and invite United Nations Educational, Scientific and Cultural Organization to make its contribution both substantively and through the participation of the relevant experts and staff in the Working Group's next session.

138. The Working Group decided to reorganize the discussions under the item "Review of developments" to assist participants to focus on specific issues. Consequently, the Working Group decided to include on its agenda the following separate items: "Review of developments: general statements"; "Review of developments: indigenous peoples - education and language"; "Review of developments: health and indigenous peoples".

C. Land rights study

139. The Working Group congratulated the Special Rapporteur, Ms. Erica-Irene A. Daes, on the study on indigenous people and their relationship to land for her working paper. It also welcomed the comprehensive and constructive comments offered by participants.

140. The Working Group decided to include on its agenda a new item entitled "Study on indigenous people and their relationship to land".

D. Treaty study

141. The Working Group expressed its appreciation to the Special Rapporteur for his work on the study on treaties, agreements and other constructive arrangements between States and indigenous populations. It took note of his explanation of the reasons for not having submitted his final report before the present session and expressed the hope that the final report would be submitted before the end of 1997. It also welcomed the general comments of observer Governments and indigenous peoples, as well as their observations on the third progress report.

142. The Working Group welcomed the assistance provided to the Special Rapporteur by the Government of New Zealand and Maori organizations and individuals, and other personalities in Aotearoa/New Zealand to facilitate his visit to that country as part of the preparation of his final report.

E. International Decade of the World's Indigenous People

143. The Working Group welcomed the recommendation by the Commission on Human Rights in its resolution 1997/32 that the High Commissioner for Human Rights assume responsibility for coordination of the International Decade. It also expressed its willingness to cooperate with the Coordinator in the realization of the programme of activities of the Decade.

144. The Working Group expressed its congratulations to the Advisory Group for the Voluntary Fund for the International Decade for the work it had accomplished, for the initiatives it had taken and for the transparency of its working methods. The Working Group further urged the members of the Advisory Group and the Board of Trustees to make every effort to attend the meetings to which they are invited.

145. The Working Group expressed its appreciation to the Government of Spain for its offer to host the Workshop of Indigenous Journalists in Madrid in the early part of 1998 and recommended that the Working Group be represented.

146. The Working Group recalled the recommendation of the General Assembly in its resolution 50/157 that there be a review of the Decade in 1999 and decided to include a sub-item entitled "Preparations for the mid-point review of the Decade".

147. The Working Group welcomed the recommendation made by the Commission on Human Rights in its resolution 1997/32 that the High Commissioner/Centre for Human Rights convene a workshop for research and higher education institutions focusing on indigenous issues.

148. The Working Group expressed its continuing concern about the financial status of the voluntary funds for indigenous peoples. In this respect, it recommended to the High Commissioner when she takes up her appointment to consider holding a special fund-raising meeting with interested Permanent Missions and the members of the Advisory Group to encourage financial contributions to the voluntary funds as well as secondments of qualified staff, including indigenous persons, to assist with the work of the Office of the High Commission relating to the indigenous programme.

F. Permanent forum

149. The Working Group expressed its deep appreciation to the Government of Chile for hosting the second workshop on the permanent forum for indigenous people in the United Nations. It also congratulated the participants on the substantive discussions and the results obtained.

150. The Working Group welcomed the report of the second workshop on the permanent forum, and expressed its appreciation to Mr. Christian Mariqueia, Chairperson, and Mr. Kuupik Kleist, Rapporteur of the workshop, for bringing the report to the Working Group's attention. The Working Group endorsed the recommendation of the Santiago workshop that the Commission on Human Rights at its fifty-fourth session consider how to further the process towards the establishment of a permanent forum for indigenous people in the United Nations, inter alia through the drafting of concrete proposals to this effect and bearing in mind the possibility of submitting the matter to ECOSOC for action.

151. The Working Group decided that at its sixteenth session it would focus on the questions of the membership, participation in and mandate of a possible permanent forum, including issues such as equitable geographical distribution on the basis of where indigenous peoples live and the open and authentic representation of indigenous nations, peoples, organizations and communities.

G. Meetings and other matters

152. The Working Group welcomed the establishment by indigenous peoples of a committee on indigenous health issues for future cooperation with the Office of the High Commissioner, the Working Group and the WHO.

153. The Working Group decided to consider the following items at its sixteenth session: "Standard-setting activities"; "Review of developments: general statements"; "Indigenous peoples: education and language"; "Indigenous peoples and health - recent developments"; "Study on indigenous people and their relationship to the land"; "Study on treaties"; "International Decade of the World's Indigenous People"; "Permanent forum"; and "Other matters".

154. The Working Group expressed its gratitude to the Secretariat for the preparations for its fifteenth session and requested that an annotated agenda be prepared, as in previous years, for its sixteenth session.

155. The Working Group expressed its gratitude to the Department of Public Information, and in particular to its Director, for the valuable assistance in providing important background information and press releases concerning indigenous issues.

156. In her closing statement, the Chairperson-Rapporteur congratulated the participants on the work accomplished and reminded them that consultations among members of the Working Group would be continued during the forty-ninth session of the Sub-Commission. She reiterated her commitment to look for ways to make the sessions more fruitful. She provided participants with information relating to the Working Group: 44 observer Governments took part in the meeting together with 13 United Nations and intergovernmental organizations and 281 indigenous nations, communities, non-governmental organizations and individuals. A record attendance of 887 persons had attended.

157. As far as the substantive items were concerned, the Chairperson-Rapporteur thanked all participants for their statements on item 4 about the concept of "indigenous peoples". She encouraged participants to provide information for the working paper on indigenous peoples and their relationship to land. It would be helpful if the question of health were maintained on the agenda; she expressed her appreciation for the workshop on substance use held by Canada during the session and congratulated indigenous peoples for establishing a health committee.

158. Ms. Daes expressed her warmest thanks to the Special Rapporteur on the study on treaties. She also reiterated her interest in the final report to be submitted by the Special Rapporteur. She expressed her satisfaction at the fruitful exchange of points of view which had characterized the discussion on item 7. She hoped that Governments would provide support to the initiatives undertaken by indigenous peoples. She expressed once again her gratitude to the Government of Chile in hosting the workshop on the permanent forum and the Chairman, H.E. Ambassador Cristian Maquieira, for the excellent way in which he had conducted the deliberations of the workshop and his personal

contribution to the constructive and fruitful consideration of the different aspects of the permanent forum. She also thanked Mr. Kleist, Rapporteur of the second Workshop. Finally, she stated that the General Assembly and ECOSOC were the most appropriate organs for developing the different aspects of the permanent forum. In conclusion, she wished all participants a safe return to their homes and countries.

IX. ADOPTION OF THE REPORT OF THE WORKING GROUP ON ITS FIFTEENTH SESSION

159. The report of the Working Group on its fifteenth session was adopted on 11 August 1997.

ANNEX

Guidelines relating to transnational corporations and indigenous peoples submitted by the Indigenous Preparatory Meeting, 26-27 July 1997

PREAMBLE

Guided by the purposes and principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights, and with the understanding that indigenous peoples have the right to their lands, territories and resources which must be recognized and respected, and with the knowledge that transnational corporations have gained much of their power, position and profit by the exploitation of these resources, we believe that they will willingly respect the following proposed guidelines:

1. CONSENT

International Corporations should gain the free and informed consent of indigenous peoples prior to initiating or implementing development activities which directly or indirectly affect the lands, territories and resources of the peoples concerned.

2. CONSULTATION

International Corporations should consult with and directly involve indigenous communities and their representatives in all stages of planning, assessment, implementation and conclusion of proposed development activities, to ensure that their economic, social, cultural and political rights and activities are not adversely affected by the proposed development activities.

3. WRITTEN AGREEMENTS

International Corporations should negotiate and secure written agreements from the indigenous peoples concerned including, but not limited to, the implementation phases, assessed ramifications and profit sharing arrangements, prior to initiation of any development activities.

(Transnationals should be encouraged to provide financial assistance to indigenous peoples to ensure that the peoples concerned have full access to and ability to engage experts and resource persons as members of their negotiating teams, if they so desire. Such experts shall be vetted and engaged by indigenous peoples directly.)

4. COMPENSATION

International Corporations should negotiate with the indigenous communities a just and fair profit-sharing arrangement, prior to signing of any kind of agreement, and with full disclosure of the projected profit and complete development plans for the relevant project, to ensure that the peoples concerned receive an equitable profit share and/or compensation package.

5. MONITORING AND RECOURSE

International Corporations should have ongoing meetings with the indigenous peoples concerned, throughout the duration of the project, to ensure their direct role in the monitoring of all stages and effects of the project. They should provide a recourse mechanism to deal with possible disagreements over the provisions of written agreements between indigenous peoples and transnational corporations. Such a body should ensure the direct participation of the indigenous peoples concerned and give full and immediate effect to its decisions and conclusions.

6. ANOMALIES

In the case of circumstances in which problems occur which were not part of the original assessment impact report, International Corporations should make immediate restitution for life, land and/or property and other damages that may have been caused accidentally or through negligence.

7. TRANSPARENCY

Transnationals should make public, through their annual reports, the economic, environmental and social impact on the communities in which they work, data on indigenous equity participation and, where relevant, compensation packages and response times to effect compensation or restitution.

Transnationals must make transparency and public accountability a cornerstone of their public relations policies and, in particular, in all matters of their relations with indigenous peoples. This will lead to public trust in companies, their policies and their products.

All corporations should adopt environmental policies which form part of their corporate responsibility. These environmental standards should be developed in consultation with the communities affected and be rigorously applied to indigenous areas, regardless of the status of indigenous peoples within the relevant state.

8. ACCOUNTABILITY

Human rights issues are not an internal matter but a matter of concern to the entire international community. The transnationals that work in the countries where there are no internal legal frameworks and/or administrative mechanisms that are capable of enforcing and/or providing such involvement of indigenous communities should accept a constructive obligation to respect the guidelines and the fundamental human rights of indigenous peoples.

9. FINANCIAL INSTITUTIONS

All financial institutions should insist on an independent environmental assessment report prior to agreeing to funding projects. These should include:

(a) The ecological, social, cultural and economic impact on indigenous communities and peoples;

(b) Recommendations to eliminate or minimize negative impacts; and

(c) Provisions for foreclosure of loans if these recommendations are not fully implemented.

10. SUPPORT

Within the "new partnership" as adopted by the General Assembly in its resolutions, we request from the High Commissioner for Human Rights to support financially and assist us to ensure that we can develop, adopt and implement full guidelines before the year 2000.